Mr. Blandings' Dream Reconsidered *Eric Hodgins*

THE NEW REPUBLIC

A Journal of Politics and the Arts—June 10, 1972, 50 cents

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Making It Work—*The Editors*

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Congressional Amnesty—*Michael Wyatt*

Two Futurists—*Reed Whittemore*

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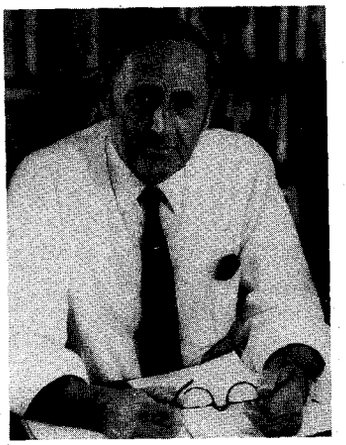

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TRB

from Los Angeles ®
June 10, 1972

Yesterday and Tomorrow

Some random thoughts from California, written before the Democratic presidential primary:

This is a state which has developed, during the past four years at least, a particularly perverse tradition of making one candidate the principal issue in its Democratic primaries. It inevitably occurs in the last week of the campaign, just when the voters finally are willing to take some time off from worrying about whether they'll be able to meet the next mortgage payment or whether the kids are being sold dope at school in order to semi-seriously consider who's running for what. Not entirely by coincidence, that last week also is the time when too many politicians choose to unload their "smear" material.

Some examples of the candidate-as-issue phenomenon, and what it does to the men who have the misfortune to be selected as its target: in 1968, Senator Robert F. Kennedy went into the last week of the California primary with a lead of approximately 15 percentage points over Senator Eugene J. McCarthy. Kennedy won by four precarious percentage points, and thus became the only politician in recent years to withstand the intense scrutiny which accompanies the dubious distinction of being designated as the focus of an entire political campaign.

The following year, Los Angeles city councilman Thomas Bradley was the favorite in the race for mayor, having been the leading candidate in a crowded primary field. But in the runoff, incumbent Mayor Sam Yorty pulled ahead in the last week, with the aid of a smear campaign aimed at whites who feared the consequences of a black man's running their city. (The analogy isn't perfect here because the Los Angeles mayorality race is ostensibly nonpartisan, and because it was a municipal rather than a statewide contest.

In 1970, Rep. George E. Brown, Jr. led throughout the Democratic primary contest for a Senate seat—until the last week of the campaign, when enough voters became convinced Brown was some sort of dangerous radical. Rep. John V. Tunney surged ahead of him, was victorious in the primary and went on to win the general election.

Now Senator McGovern is the issue. Not his proposals for reordering the federal tax structure, not his program to reduce the Defense Department budget to $55 billion annually, not even his real or imagined positions on amnesty, abortion and marijuana. Just McGovern himself, and whether California Democrats are ready to designate such a man as their choice for President.

In a middle-income Jewish area of Los Angeles, boys stand on street corners dispensing leaflets with headlines reading "McGovern endorsed by Arab Lobby" and "McGovern urges Israeli pullout." For conservatives, the campaign of Senator Humphrey is dispensing a reprinted newspaper column which asks: "Is McGovern a courageous progressive who understands better than most politicians what people really want, or is he a radical who would undermine our national defense and make chaos of our social system?" For liberals, there's another leaflet suggesting that McGovern has sided with the hawks, the right-wingers and sundry other bad guys during 27 different Senate votes since 1966 on legislation affecting labor, the draft, the war and civil liberties.

The thousands of youthful volunteers who have poured into the state to work for McGovern are important, but far more significant may be a phenomenon related to the much-discussed sense of frustration and alienation within the American electorate. As recently as three years ago, the conventional wisdom among politicians was that any incumbent seeking reelection was the overwhelming favorite, barring scandal or some other unique misfortune. The incumbent possessed that invaluable commodity called "name recognition," a government-paid staff to write his speeches and numerous other perquisites of office, not to mention financing from contributors who knew they were buying access to an almost-certain officeholder.

All of that has changed. The voters translate their hostility toward government into opposition to any man or woman who has served in office and has been satisfied to merely perpetuate the old political order. In an increasing number of cases throughout the country, election results are showing that it's more politically advantageous to be a challenger than an incumbent. And in this particular case, the man who is inevitably perceived as the incumbent, the representative of the old order, is Humphrey. Is it any surprise that when he summarized his political career at the end of the first televised debate with McGovern, Humphrey mentioned his service as mayor of Minneapolis and his membership in the Senate, but conveniently forgot to include his tenure as Vice President?

The most striking difference between the two men is that Humphrey talks about the past while McGovern talks about the future. Humphrey's inability to move beyond the politics of the '50s and the early 1960s apparently has cost him the support of most of the state's Chicano vote, approximately six percent of the electorate. Back in the days when Humphrey was a leader of the civil rights forces in the Senate, Chicanos were so oppressed and ignored that their existence was virtually unknown to most of the country's liberals. Today, Chicanos are organizing to secure their piece of the action, and they turn to politicians like Kennedy and McGovern — not Humphrey — to make their alliances. Humphrey still has considerable support in the black community, based on his pre-1964 record, but for Chicanos he's an irrelevant figure.

Finally, there's the striking difference in the attitudes of the young men and women who ran the McCarthy campaign in 1968 and those involved in the McGovern campaign this year. In many cases, particularly at the higher levels of the two political organizations, they are the same people, four years older but still in their late 20s or early 30s. Four years ago, many of them understood, subconsciously at least, that they had almost no chance of nominating or electing their candidate, but they were having a great deal of fun tweaking the nose of the Democratic Party's establishment. This time around it's a fight for the heart and soul of the party, and nobody is more aware of it than the young McGovern aides. The result is a very serious campaign staff working for a candidate who is not particularly known for his humor. If that sounds somber and sober, so be it. In the end, winning is more fun than losing.

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Making It Work

There is one deadly irony in the final communiqué issued by President Nixon and the Soviet leaders. The two governments agree that "despite the differences between the USA and the USSR in social systems, ideologies, and policy principles, it is possible to develop mutually advantageous cooperation between the peoples of both countries, in the interests of strengthening peace and international security." Had that viewpoint been respected over the past 10 years, the civil war in Indochina would have long been over. But does one imagine that the Soviet Union would have supplied Hanoi if that government were anti-Communist? And does anyone imagine that the United States would have underwritten successive Saigon regimes with massive amounts of money, men and equipment if it had not thought it was thereby containing communism in Indochina? The Moscow talks notwithstanding, that war of social systems goes on. Within the past 10 days, as many US troops entered Vietnam as were withdrawn. There has been no let-up in the bombing. In addition to 62,400 US servicemen still in Vietnam there are 45,000 in Thailand who are part of our war effort, and 41,000 sailors of the seventh fleet stationed offshore.

If the two great powers could not translate their pledge of peaceful coexistence into a plan for prompt withdrawal from Indochina, they were able to reach a limited meeting of minds on the strategic arms race. That an arms agreement could have been made 20 years ago, at a tremendous saving, does not depreciate its current or prospective value. The treaty on antiballistic missiles formally ratifies a preexisting reality: strategic nuclear war would mean national suicide. By affirming that neither nation will deploy defenses against ballistic missiles that could protect large fractions of their populations, both sides are deliberately leaving themselves vulnerable to the retaliatory weapons of the other, as they have in the past. This vulnerability is now guaranteed, regardless of how many long-range missiles or bombers the US or the USSR may have. So far as mutual deterrence is concerned, the ABM treaty places a seal on stability.

The treaty is not without some important weaknesses. It unnecessarily permits the building of additional ABMs beyond those the US or the Soviet Union has or has firmly programmed. We say unnecessarily, because if the allowed two ABM sites provide adequate secu-

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rity, one provides as much security, and none provides as much as one. Nevertheless, the treaty does proscribe large, nationwide ABM systems which could fuel fears that one side could strike first and get away with it. The new second Russian ABM site which is permitted, and which probably could have been banned if the US had not insisted on having the right to build a second site of its own, will have to be located east of the Urals, and thus cannot protect large population centers in western Russia. Furthermore, many restrictions are placed on the numbers, types and testing of sophisticated radars, so that even Senator Jackson will find it hard to ring the alarm over the possible Soviet upgrading of its air defenses. The Russians have even accepted the fact that such advanced technology systems as laser beams come within the scope of the limitation.

The interim agreement on offensive weapons is of more marginal value, since it only freezes the total numbers of missiles and leaves both sides wide freedom to replace present weapons with new ones. The freedom invites abuse. The qualitative arms race is given implied support, which has not gone unnoticed by Senator Jackson, who says the agreements "are likely to lead to an accelerated technological arms race with great uncertainties, profound instabilities and considerable cost." Secretary of Defense Laird, though he may have only wanted to set up a public relations defense against possible right-wing backfires in Congress, has given some encouragement to those who believe that more defense is always safer. In hailing the results of the talks, Mr. Laird remarked that we must always "maintain a technological superior position," and that there will be "no savings as far as the request for offensive strategic weapons which have been presented to the Congress in the 1973 budget." Specifically, the secretary has said that it is "absolutely essential" to go forward with research and development on a new series of submarines that are to hold 20 to 24 long-range missile launchers.

The fact that the Russians will be left with more missile launchers than the US is of no security consequence. Without an agreement, the Russians could have added to their arsenals, but there is little evidence they wished to go beyond the numbers the treaty permits. The key point is that the US has far greater nuclear power than it needs to destroy nearly every principal Soviet city, and our government has never seriously contemplated further increasing the number of its launchers; instead, we have put more warheads on existing missiles. The decision to freeze the number of large ICBM launchers at present levels is useful, since it was this Soviet build-up that was used to justify many of our newer weapons programs.

There is one article in the treaty and in the interim agreement which could be of major importance. Both nations formally accept national, technical means of monitoring and agree that this reconnaissance shall not be interfered with and that deliberate methods of concealment shall not be used. Neither can become a blinded Cyclops. While these unilateral methods of verification have been tacitly recognized previously, as in the Limited Test Ban Treaty, this is the first time they have been given legitimacy. In contrast to the shooting down by the Russians of the U-2 in 1960, photographic satellites are mutually acceptable.

Because the interim agreement leaves such large loopholes in the qualitative side, the test of the Moscow talks is whether both countries now show restraint. The danger is that one or another will attempt to compensate for alleged concessions by doing what is not prohibited, as happened after the signing of the Limited Test Ban Treaty, when more underground nuclear tests were conducted than necessary. If, however, all projects for new weapons systems as well as research on advance designs are reviewed in the light of the new situation of guaranteed, stable deterrence, and if only those programs that have provable military need are continued, then the interim agreement could lead to a more meaningful limitation on offensive weapons. The working out of that agreement is the future business of Mr. Nixon or his successor. The need is to maintain momentum, following up on such communiqué promises as "reciprocal reduction of armed forces and armaments, first of all in central Europe."

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The Nixon Watch

Plus for the President

Warsaw

The wisest thing said by anyone in Richard Nixon's entourage during his eight days at the Moscow summit and his homeward visits to Kiev, Tehran and Warsaw was uttered by Henry Kissinger in a saloon. In order to escape the international hubbub and the complexities of obligatory Russian-English translation at the press center in Moscow, Kissinger turned up once in the American Embassy snack bar and twice in the ghostly twilight of a closed nightclub to explain the mysteries of the summit to reporters who accompanied the President from Washington. The only place available in Kiev for Kissinger's fourth performance was an Intourist bar.

The summit conference had produced a treaty and an interim agreement to limit US and Soviet nuclear armaments, six lesser agreements, a joint communiqué and a statement of "basic principles" which throbbed with peaceful intentions. Some indications that the two governments had got at least a little closer than they had previously been to helping each other bring about a negotiated end of the Indochina war also emerged. The reporters wanted to know whether this orgy of accommodation was ephemeral or whether it really did signal the beginnings of what the communiqué called "a more stable and constructive foundation . . . for the development of peaceful relations and mutually beneficial cooperation between the USA and the USSR." It was midnight. Through a window at Kissinger's back, his questioner could see the lights of the lovely city winking out along both banks of the curving Dnieper River. Kissinger's dumpy figure sagged and his deep voice occasionally shook with fatigue as he leaned on a portable lectern and framed his reply. His answer dealt mostly with the "statement of basic principles," but it was clearly intended to encompass the whole gamut of summit agreement and discussion. Condensed and slightly tidied up for clarity, here it is:

"We are not naive. It is perfectly possible that six months from now it will turn out that we are again in a period of extreme hostility. If that has happened, both countries will have lost an opportunity and the world will have lost an opportunity. We think the achievement is that we have made these agreements, that SALT has been concluded, and that at least there has been a recognition for the first time on both sides, not just that this or that problem has to be solved but maybe that a new style of international relations has to be developed. How successful we will be in implementing that, only the future will tell. We are not saying that these principles can be a cookbook to which you need merely refer to have a guide for future action. Nor are we saying that it is not perfectly possible that these principles can be broken almost immediately. Nor am I rejecting the possibility at all that they are intended [by the Soviets] as a tactical device to lull certain people. All of this is possible. But if any of these events happen, then we will act with firmness, and some other leaders somewhere along the line will have to address the problem of how to have a peaceful world in an age in which a cataclysm depends on the decisions of men. We have laid out a road map. Will we follow this road? I don't know. Is it automatic? Absolutely not, but it lays down a general rule of conduct through which, if both sides act with wisdom they perhaps can, over a period of time, make a contribution. At this point it is an aspiration. We would not have signed it [the statement of principles] if we did not believe there was a chance for implementing this aspiration."

The chief American aspirant at the summit, Richard Nixon, buried himself most of the time in the magnificent caverns of the grand Kremlin Palace, where he and Pat Nixon and Kissinger and a few assistants were quartered. The reporters in his press party saw more of the President on Soviet television than in the flesh, and it was not until he left Moscow, after a spectacular farewell reception for him, that a few stories of how he handled himself leaked out. Sparse though the accounts were, and designed as they naturally were to do the President credit, they told something of him at a peak of hope and effort.

Nixon in Moscow took his penchant for conserving his time and energies to lengths never before observed by his assistants. In Washington, a 15-minute appointment might be stretched to 30 or 45 minutes if the subject interested him. In Moscow, his assistants understood that 15 minutes meant 15 minutes and less if possible. Mainly preoccupied though he was with summit affairs, he never loosened his grip on the White House operation at home. Each day in the Kremlin began with the President's staff chief, H. R. Haldeman, collecting instructions for telephone relay to George Shultz, John Ehrlichman at the White House, John Connally in his last days at the Treasury. They proposed but Nixon, in Moscow as in Washington, disposed. Whether in the Kremlin or aloft in a Soviet Ilyushin-62 enroute to Leningrad and Kiev, his control of the nuclear command system was as clear and total as it would have been in Washington.

After Nixon and his principal Soviet host, Leonid Brezhnev, signed the proposed ABM treaty and the interior offensive arms agreement late on Friday night in Moscow, the President retired with Mrs. Nixon and a few assistants from the domed and gold crusted Vladimir Hall at the Kremlin to the room he used for an office. There Nixon, Haldeman, Kissinger and others who drifted in and out talked quietly and shared a modest round of drinks. A reporter to whom it all seemed mighty restrained on such a great occa-

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sion asked one of the assistants whether the President seemed to be even mildly elated. "Sure he was," the assistant replied, "but when he is he doesn't dance a jig you know."

The President's instructions about Vietnam to Press Secretary Ziegler, Communications Director Herbert Klein, and one or two other assistants who were made available to reporters reflected the extreme sensitivity of the Vietnam issue and Nixon's desire to discourage speculation to the effect that he had serious hopes of persuading the Soviet leadership to do what it could to push the Hanoi leadership toward a more relaxed and amenable negotiating stance. The instructions were that nothing whatever was to be said about Vietnam beyond what Nixon and Kissinger had already said—that Vietnam of course had to be and was on the summit agenda—until the summit was over and the agreed official statements were made. I judge from what was said and implied then in the formal statements and by American and Soviet officials that Nixon hopes but still cannot be sure that his Soviet hosts will work quietly with him and Kissinger to persuade the Hanoi government that in the end it may benefit more from a negotiated settlement on terms acceptable to the President than it can from indefinite warfare in South Vietnam with continued American bombing in North Vietnam and continued mining of the entrances to North Vietnam's harbors. Henry Kissinger said at the summit's end, "There were long, sometimes difficult and very detailed discussions on this subject. Whether the two sides understand each other better or whether what they have understood provides the basis for a constructive evolution only the future can say, and I wouldn't want to speculate on that." My impression is that he doesn't want to speculate on it because he awaits a favorable turn in Soviet policy without any Soviet admission that it has occurred, and knows quite well that any official American indication to that effect could wreck whatever prospect there may be of its actually occurring.

The explanations that accompanied publication of the Arms Control Treaty and Interim Agreement were interesting chiefly for their defensive tone and their indication that the President is acutely aware of the vulnerable points. Kissinger, who of course was the principal explainer, labored with all the eloquence and brilliance at his command, along with a dash of sardonic humor, to minimize the vulnerabilities. The essence of his argument, the argument soon to be heard in Congress, was that the continuing nuclear advantage allowed the Soviet Union in offensive missilery, including submarine-launched missiles if it exercises all of the options permitted by the treaty and the agreement, will at the very worst be less than it would have been without the treaty and agreement at the end of the first five years of negotiated restraint. His overall contention that the great and promising thing is the undertaking of the two major nuclear powers to limit both offensive and defensive nuclear armaments in some degree seemed to me unassailably right.

Throughout the trip, from Moscow to Tehran, the crowds along Nixon's infrequent public routes were curious, passive, never demonstrative. Even at Kiev, a warmer city (in the human sense), the thousands who watched him arrive and leave at the inevitable 50-mile-an-hour speeds of Soviet motorcades were so silent that one American reporter called the lively capital of the Ukraine a city of the dead. In Tehran, where the Shah whom Nixon was visiting certainly wanted to show his ally and friend every courtesy, the crowds seldom cheered. Terrorists setting off bombs near a shrine that he visited later, and beside the local USIA building, and a belly dancer climbing onto Henry Kissinger's lap at a press party provided demonstrations of a sort, but not the kind that Nixon laps up. That would come in Warsaw, if at all, and one would have thought that Nixon, busy at the summit though he was, would have spoken occasionally of the enormous welcome that he received here when he came as Eisenhower's Vice President in 1959. Assistants who saw him every day in Moscow said he never mentioned his memory of that visit to them and never suggested that Warsaw had been put on his itinerary in the hope that its people would give him another public triumph on his last stop before flying to Washington. This may have been because his staff and presumably the President didn't know what to expect this time. The Warsaw embassy and the President's advance men reported up to the day he left Tehran that they didn't know whether the Polish government would encourage or discourage a repetition of the frantic 1959 welcome by a quarter-million Poles that led Nixon to call it afterward "a message to free people and to those throughout the world who yearn for freedom, telling them that the torch of freedom still burns in the hearts of millions of Poles despite 14 years of Soviet occupation and Communist rule."

Communist Poland in 1972 was different from the Poland of 1959—a little less repressed, a good deal less subservient to Moscow—and the welcome to Nixon was different. Scores of thousands turned out, and cheered, and chanted and sang their pleasure at having Nixon in Warsaw. But, unlike 1959, the authorities were ready for it. Police lining the seven-mile route from the airport into the city prevented the surges into the streets that blocked Nixon's car and overwhelmed the few police on duty then. This time the note was one of friendly curiosity, a sense of being honored, rather than of protest and yearning. A hundred or so youngsters, shouting "peace now! peace now!" seemed militant in a way that most of the cheering, singing, laughing people around them didn't. An hour after Nixon first passed through the city's center,

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the crowds were still out, chanting and singing. Nixon, holed up with Polish Communist officialdom, must have thought it a useful prelude to his return and report to Congress on the Moscow summit.

John Osborne

"Law and Order" Cases

Powell's Day

A " 'law and order' judicial mood," wrote Mr. Justice Douglas, dissenting in *Johnson v. Louisiana* on May 22, is causing "barricades to be lowered" which had in the past protected the accused in criminal trials. The Court held, 5-4, in the *Johnson* case and in a companion case from Oregon that unanimity was not required for conviction by a jury in state criminal trials. A vote of 9-3, as in Louisiana, or of 10-2, as in Oregon, is enough in noncapital cases.

On the same day, dividing 5-2 in *Kastigar v. United States* and *Zicarelli v. New Jersey Commission of Investigation*, the Court held that the tender to a witness of so-called "use" rather than "transactional" immunity from prosecution is sufficient to compel him to testify in circumstances in which he would otherwise have been entitled to remain silent by claiming his Fifth-Amendment privilege against self-incrimination. Transactional immunity, held to be unnecessary, means that the government undertakes never to prosecute the witness for the offense—the "transaction"—concerning which he was required to testify. Use immunity means that the government may not in any future criminal case use against the witness the information now provided by him, or any leads directly or indirectly derived from his testimony, and must, if it is ever to prosecute him in the future, affirmatively show that the prosecution is based on independently gathered evidence.

The jury opinions were written by Justice White, with the full concurrence of the Chief Justice and Justices Blackmun and Rehnquist. Justice Powell made the majority, but he rested his conclusion on grounds substantially different from Justice White's. The dissenters, in addition to Justice Douglas, were Justices Brennan, Stewart and Marshall. In the immunity cases, Justice Powell wrote the opinion, and he was joined by the Chief Justice and Justices Stewart, White and Blackmun, with Justices Douglas and Marshall, dissenting. Justice Brennan, who would probably have been in dissent, judging by his past record in similar cases, disqualified himself for reasons which, as is usual, he did not make public. Justice Rehnquist was also disqualified, no doubt because he had worked on the *Kastigar* case while in the Justice Department. It is a fair guess that he would have joined the majority.

If it was a law-and-order judicial mood that produced the jury decision, as Justice Douglas thought, it produced precious little law and order. It is a commonsense surmise that without the need for unanimity there will be fewer hung juries. So there will be more convictions. And some more acquittals, too. But the additional convictions will be very few, a drop in the bucket, statistically barely measurable. Besides, no more than ten percent or so of criminal cases go to trial. Most are disposed of on pleas of guilty. And most crimes never become cases because they are never solved. There's the real rub.

There is, in any event, no evidence of any law-and-order mood in either Justice White's opinion or Justice Powell's, which is the decisive one. Even though jury unanimity is not mentioned in the Constitution, the Court in the past, wrote Justice Powell, "has presumed that unanimous verdicts are essential in federal jury trials, not because unanimity is necessarily fundamental to the function performed by the jury, but because that result is mandated by history," the history of the Sixth Amendment. This mandate of history Justice Powell proposed to respect. But it affects only federal, not state criminal trials. With respect to the states, the decision is a free one, and the question is whether it is necessary to impose on them uniformity in conformance to federal practice. Reverting to the view firmly held by the late Justices Frankfurter and Harlan, in some measure also by Justice Fortas, and at times espoused as well by Chief Justice Burger and Justice Stewart, Justice Powell concluded that uniformity should not be compelled, and that if a state legislature wished to abandon jury unanimity, as has been done in England, and as is recommended by some though not all professional opinion, the Supreme Court had no call to say it nay.

Strong arguments can be made against the Court's result, and the dissenters, particularly Justice Stewart, made them. It is an entirely legitimate worry, for example, as Justice Stewart wrote, that the confidence of heterogeneous communities in the criminal process will be "corroded under a system in which a defendant who is conspicuously identified with a particular group can be acquitted or convicted by a jury split along group lines." But under the rule of unanimity juries can be and have been publicly deadlocked by splitting along group lines. Yet even if, after discount, such a consideration as this does not seem conclusive, what is there of decisive weight the other way? Efficiency? Not a great deal. All there really is the other way is the judgment of a couple of state legislatures, which runs counter to a clear and ancient national tradition.

The history of the Sixth Amendment convinced Justice Powell that its framers meant the rule of unanimity to prevail in federal jury trials. The history of the Four-

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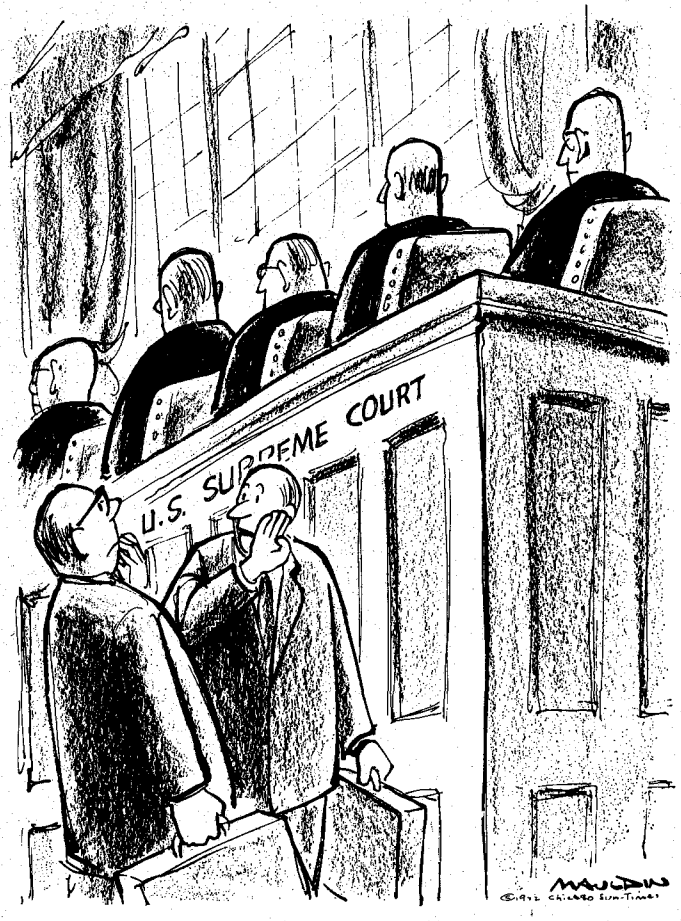
teenth Amendment, which is the law applicable to the states, not the Sixth, carries no such message. But tradition and popular understanding do, and the matter being, on its own merits in the present state of our knowledge, fairly in balance, the traditional common understanding might in this instance have been valued higher than the freedom of the states to experiment. Despite these doubts, there is a lot of good sense in Justice Powell's protest against the imposition on the states in every detail of a uniform code of criminal practice conforming to federal practice.

May 22 was altogether Justice Powell's day. In the immunity cases as in the jury cases, his opinions are deliberate, thoroughly professional. They reflect what in the early days of the Republic used to be called a candid mind. The result in the immunity cases is wholly persuasive. A plea of the Fifth Amendment does not earn amnesty for the witness. If the government succeeds in gathering some evidence of the offense concerning which the witness refused to testify, a prosecution can be instituted. There is no good reason why, if the witness has been forced to testify under immunity, the consequence should be amnesty. The testimony he was forced to give should not be used against him, directly or indirectly. That was the law before now, and it remains the law. But if the government is able to uncover other, independent evidence, why may it not be used? No doubt there will be problems of proof. Was the new evidence on which a prosecution is based independently obtained or does it actually derive from leads provided by the compelled testimony? The government ought to be held to a very strict standard, as it is when similar problems of proof arise in similar contexts. It bears, Justice Powell held, the burden of proof, and must discharge it affirmatively.

Experience may conceivably show that Justice Powell's decision opens up too many opportunities for evasion by prosecutors. If so, it will need to be reconsidered. For the moment, however, the answer to fears that there will be endless abuses of what is otherwise a sensible and fair rule is the answer Justice Holmes once gave: not while this court sits, and not while the rest of the federal judiciary sits.

Alexander M. Bickel



"By George, they have *taken a turn to the right."*

"We'll All Have a Good Time"

Street Party

Austin, Texas

On April 21, after Austin police had used clubs and tear gas to break up a demonstration against the Indochina war, a few hundred students gathered on the mall in front of the administration building on the University of Texas campus. A student speaker called for another organizing meeting at seven o'clock. One girl said that there had already been some serious injuries, medics would be present that evening, those who had helmets should bring them. A young man who seemed to be chief spokesman took the microphone and said that demonstrations shouldn't presuppose violence, that it was contrary to the nonviolent spirit of what they were doing. "Get your friends to come along," he said, "tell them to bring some beer and we'll all have a good time." That drew cheers and some spontaneous cries of "Street party!"

That night a crowd gathered at the Lyndon B. Johnson School of Public Affairs next to the LBJ Library. It seemed to be mostly curious onlookers and students on a lark. There were a few isolated serious discussions in small groups and a good many plainclothesmen.

Some rocks were thrown, breaking three or four windows of the LBJ School. Most of the crowd, probably 80 percent, ran or began walking away. Someone with a bull horn called them back saying that there was no trouble. Most returned. The voice on the bull horn suggested that everyone move back to the main mall. When I got there I saw about 20 or 25 people sitting on the steps of the main building, but there was no crowd. I walked back to the steps on the east side of

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the mall where people were still coming from the LBJ complex so that I could check the flow. I listened to fragments of conversations about sundry student interests and comments about the evening's activities. Then I moved back to the mall, where a crowd of several hundred had gathered. A male voice called, "If you'll just stay, just sit down, we can accomplish something here."

A bearded young man who was leaving called back sarcastically, "Accomplish what, break some more windows?" People snickered, and he and others continued to leave.

The whole thing seemed to have lost its impetus. No one was paying much attention to the speakers. Some of the volunteer medics had picked up their first-aid supplies and gone. A student near me had a radio and was monitoring the police calls. The radio voice said that "they've gone to the main building." It instructed police to go there and said for anyone who had gas to take it. In a final attempt to generate some interest, some of the students began to move into the main building. No one tried to stop them.

A speaker on the steps called for a student strike. "Just move into the main building and sit down." He said that more would join and that by Monday they could shut down the university. Most of the crowd laughed. More people started moving off.

Suddenly the students who had entered the building came running out. The police were using their clubs and spraying mace at them as indiscriminately as if it were air freshener. More students came out, some obviously hurt, all obviously gassed. A young man, red faced and crying, said he'd been gassed, maced, and clubbed and that he didn't want more. "Let's just sit down and have our peaceful demonstration on the mall." His voice breaking, he said that inside the building they had been jumped without warning. They had tried to leave but were jumped again. He said that people had been thrown to the floor and beaten until their faces were bloody. "A lot more cops have pulled up behind the building." By the time he had finished talking, helmeted University of Texas police were lined up shoulder to shoulder all across the front of the building. Austin city police were behind them. The red-eyed youth exhorted the people to sit down. "Let's see if the cops are willing to stay up all night with us," he said. There were isolated shouts of "gestapo!" and "give America back to the Americans!" There was no push toward any building; no movement toward the police. The crowd was more tightly knit now, but there was no threat.

Suddenly there were shouts of, "Look out behind you!" Austin police with helmets and gas masks had massed across the street along the south edge of the mall, opposite the main building, and were moving northward toward the rear of the crowd. Those on the mall were sandwiched between the line of police in front and the oncoming police behind. Buildings on each side limited lateral egress. Nonetheless, in the face of the police threat, people began to walk quickly to the east and west. They were not unruly. Then the police rushed and began to rain tear gas on the mall. People did their best to get away. They ran in every direction. Many were gassed. The police pursued. There was never any mob—only a loosely knit group that had been dwindling until the police began to use force. There was never any audible order to disperse. They were advancing on people who had had every reason to believe that they were part of a legal, peaceful assembly and had nothing to fear.

There were plainclothesmen in the crowd where I was. They could hear the comments I heard and could see what I saw. They must have been aware of the temper of the crowd and known that it was breaking up. Had they been left alone for another ten minutes, I think that everyone would have left. When the gas was used, most, if not all, of those people on the mall were busily engaged in getting out.

Accounts of such incidents in the past have stressed that the police showed great restraint, that they took direct action only after extreme provocation. Not so here. The story here was on the faces and in the voices of the students—outrage, disgust, astonishment. There was fear, too, but not as much as one might expect: young men helping friends blinded by tear gas; a boy carrying a girl who had been gassed and maced and who had ugly red welts on her young legs from a tear gas grenade that had gone off almost at her feet—the girl crying, "My eyes, my eyes," as the boy tried to console her while moving her to safety; one young man, face blistered and eyes streaming, who said aloud in undirected bitterness, "What this campus needs is another quiet, peaceful demonstration"; a hundred-pound girl trembling in the shadows of a building on the edge of the mall saying, "Well now I know what it's like to be hit by a billy club"; people who were leaving in disappointment because of the windows broken earlier in the evening who returned to the mall in disbelief at the violence and then were gassed because they were there. They all learned a lesson they won't forget. Calculated violence was used on them when larger, louder, more undisciplined and more disruptive demonstrations are not only tolerated but encouraged on the campus and in the public streets when they are called pep rallies. Unreasoning fury was directed not at the demonstration itself but at the reason for it.

To an observer, and certainly to the victims, it does not seem a great step from this police assault to dragging people from their homes. These students have learned something, but it is not respect for the law.

William C. La Rowe

MR. LA ROWE *is a marine corps veteran who worked for nine years in a defense plant.*

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New Faces

Two years ago, a new generation of politicians rode to power in statehouses across the South by utilizing what can best be described as "stylistic populism"; this year, the trend appears to be continuing, with several aging members of the Senate's powerful inner circle as the potential victims. The latest example comes from Arkansas where Sen. John McClellan (D), powerful chairman of the Government Operations Committee, had been forced into a runoff he is apt to lose with Rep. David Pryor (D), a 37-year-old congressman who specializes in the problems of the aged. In nearly complete returns, the 76-year-old McClellan was only 5000 votes ahead of Pryor (about 44 to 42 percent) with a young liberal, 39-year-old Ted Boswell, taking most of the remainder. The Boswell vote is expected to move over to Pryor in the June 13 runoff, giving him the nomination.

Meanwhile, there were these other developments across the South: Rep. Nick Galifianakis (D) ran five points (49-44 percent) ahead of Sen. B. Everett Jordan (D) in the first primary in North Carolina, and was favored as this is written to unseat the 75-year-old incumbent in the June 3 runoff.

In Alabama, Sen. John J. Sparkman (D), now 72, barely escaped a runoff (he had 51 percent) against a collection of weak opponents. He faces former Postmaster General Winton Blount (R), in November.

In Louisiana, Senator Allen J. Ellender (D), chairman of the powerful Senate Appropriations Committee, appears to be facing a very stiff challenge from former state senator J. Bennett Johnston, a 39-year-old moderate who lost the runoff for governor to Rep. Edwin Edwards (44) by 44,088 votes out of 1.15 million cast last year. Ellender is now 81 and will be 82 in September. If reelected, he would be 88 by the time he finishes his term. Johnson took a poll in which he played up Ellender's age in contrast to his own youth and released the replies to four of the questions, one of which showed him beating Ellender 52 to 34 percent. The primary is in late summer.

Age also played a role in the poor showings of Jordan, McClellan and Sparkman in their primaries and could be the determining factor in the eventual defeat of all four, either in the runoffs or the general election. If all three go down (they're all committee chairmen) it will decimate what remains of the once powerful southern bloc presided over by the late Sen. Richard B. Russell, Jr. (D, Ga.) for a generation.

But what is this "stylistic populism" that seems to be sweeping the South? As expected, it's a combination of things. The successful practitioners are usually young, attractive and personable, take their campaigns directly to the voters in contrast to the old-style courthouse politics of the region, and they make excellent use of TV. They're harder to decipher on the issues but their campaigns aren't barren of them.

Pryor, for instance, gained a measure of national fame with his exposé of conditions in nursing homes (he spent weekends working as an orderly) and picked up important support from Arkansas' large elderly population as a result. He ran well in black and labor precincts, took Fayetteville (home of the University of Arkansas) by a heavy majority and held his own in precincts populated by young businessmen, white-collar workers, etc. Boswell's strength was concentrated in black and labor areas of Little Rock and is now expected to move to Pryor. Pryor's weak spots were in the small towns and in rural areas along the Mississippi in eastern Arkansas, and he lost some counties in his own district (Southern Arkansas) but carried the district comfortably. To be sure of victory Pryor needs to strengthen his position in his home district, pick up more of the black vote in rural eastern Arkansas, and take Boswell's liberal vote in Little Rock. It's now very possible.

In January, we'll likely see names like Pryor, Johnston and Galifianakis in Congress, joining New Southern governors—Carter, Bumpers, Askew and West—who won races in 1970. Put in their best light, these victories are part of the slow transition of southern politics away from racism, courthouse pols and unbending conservatism and toward a new, moderate period in which younger men tackle some of the social and economic problems of the area. If they emphasize style over substance, they nevertheless are a distinct improvement.

Gadfly

Remember Joe Rhodes, the young black from Harvard who upset and annoyed the White House when he served on the President's Commission on Violence and was chastized by the Vice President? He's still at it. Running as an insurgent in Pennsylvania's recent Democratic primary, he upset the party organization in Pittsburgh, unseating state representative Errol Davis and winning the nomination for a seat in the lower house of the state legislature.

McGovern Money

The success of McGovern's direct mail operation is phenomenal. According to Jeff Smith, who's been in charge from the outset, 71,000 persons have contributed in response to mail solicitations. Some have given repeatedly, raising the average contribution from these sources to $40 and the total received from

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direct mail to $3.1 million. Smith estimates 99 percent are in the "under $200" category. The goal is over 100,000 contributors and $4 million by the time of the Miami Beach convention. The last bit mailing went out two days after the Massachusetts primary. On a single day, $110,000 came into the McGovern Washington headquarters in response. Another is planned in early June. A list of 3100 who contributed over $50 for a special fund-raising appeal for Ohio was reused. Wires were sent to each of the 3100 asking for the same amount again, as a gift or loan. Fifty-eight percent responded and rushed over $100,000 to Ohio in the closing days of that primary. Less than one percent specified it was a loan.

It Adds up to McGovern

Counting Delegates

by Paul R. Wieck

If he wins California, is there any chance a "stop McGovern" movement can be put together and, if so, who would be its principal figures? Is the McGovern delegate count hard enough to withstand an organized assault? Or conversely, where should McGovern look for the extra votes he needs and how many will he actually need to pick up in the days preceding Miami Beach? Is there a chance of a first-ballot nomination?

There will be 3016 votes at Miami Beach and it will require 1509 to win. Right now, this is how it looks for McGovern:

In 13 primaries, he has won 413.5 votes—New Hampshire, 4.5; Illinois, 13; Wisconsin, 54; Massachusetts, 102; Pennsylvania, 53 (the figure includes an allocation of at-large delegates worked out at a state level); Ohio, 61; Nebraska, 16; West Virginia, 8; Alabama, 1; Maryland, 6; Michigan, 39; Rhode Island, 22; Oregon, 34.

In 17 nonprimary states in which delegates have already been selected, McGovern has won 162 votes—Arizona, 9 (including some announced switches); Canal Zone, 2.5; Georgia, 8; Idaho, 7; Iowa, 18; Kansas, 17; Kentucky, 9; Louisiana, 18; Minnesota, 19; Mississippi, 10 (the Aaron Henry delegation); Missouri, 12 (including one switch); Nevada, 4.5; North Dakota, 10; Vermont, 9; Washington, 8; Guam, 1. Delete Mississippi for the moment since it's contested and you have 152 votes to add to the 413.5 sure votes from the 14 primary states for a total of 565.5.

As this is written, there are five additional primaries, four on June 6 (California, New Jersey, South Dakota and New Mexico) and New York's on June 20. McGovern is certain of South Dakota's 17 (his slate is the only one on the ballot). Give him California (271), where he went into the final days favored; a second-place showing in New Mexico where he could easily run first and add a few more delegates (8 votes on a proportional distribution); a good showing in New Jersey (50, or a little less than half); and a good showing in New York (230 of 278) based on the momentum of June 6 victories. This adds another 576 for a subtotal of 1141.5.

The selection process has also started in 11 additional states and territories plus Puerto Rico, giving the McGovern camp a basis for a good but conservative prediction on the outcome. They expect: Alaska, 4 (based on losing a credentials fight at a state level); Colorado, 25; Connecticut, 15 (a very modest estimate); Delaware, 7; Montana, 10; Oklahoma, 15 (a little slippage here); Texas, 30 (this would be a fair share); Utah, 14; Virginia, 20; Puerto Rico and Guam, 4. This is another 144 for a new total of 1285.5 if everything goes well in the June 6 primaries. At that point, McGovern will need another 223.5 votes.

How firm are the 1285.5 votes? Incredibly so. There are a handful of Muskie delegates in Massachusetts who are bound on the first ballot but, for the most part, are expected to stay aboard. The Michigan delegation hasn't been chosen, but McGovern expects to fill most of his allotted spots with loyalists.

Are there hidden McGovern votes? Yes, in at least four delegations. Actually, they're not that hidden. In Maryland, 11 McGovern backers were elected in districts in which Wallace received a plurality. They can switch after the first ballot or, at the end of the first ballot if Wallace polls less than 35 percent (over 1000 votes), as is probable. There are an estimated 20 in the Tennessee delegation, perhaps a few more, who are bound for two ballots or until Wallace falls below 20

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percent (over 600). In North Carolina, McGovern backers hope to have 18 to 20 votes in a delegation legally split between Wallace and Sanford for one ballot, and they'll probably end up with at least 15 in Indiana, where the delegation is picked by district and state conventions although bound on the first ballot. That's another 65, raising the total to 1350.5.

The hunting grounds are obvious—the Muskie and Chisholm delegates and a number of genuinely uncommitted delegates. How soon they move or if they move at all will depend on several things, including the determination of Muskie and Chisholm to stay in the race even though their delegates are anxious to climb aboard a fast-moving bandwagon. It's hard to keep them harnessed in such circumstances. It will also depend on whether a handful of "name" liberals move early—Morris Udall in Arizona, Frank Church and Governor Cecil Andrus in Idaho, Harold Hughes in Iowa.

Here is the minimum the McGovern people hope for from Muskie delegates: New Hampshire, 7 of 13½; Illinois, at least 20 of 59; Pennsylvania, 4; Arizona, 6; Iowa, 13 of 18; Maine, 10 of 20 (these might be the last to move); Vermont, 2 of 3; Idaho, 3 of 3. It adds up to another 65 for a sub-total of 1415.5.

A check of Chisholm delegates gives them hope for 14 of 21 and McGovern's people expect about 13 of 15 Fauntroy delegates from the District of Columbia when they're released. That's another 27. Subtotal: 1442.5. Give them the 10 from Mississippi and you're up to 1452.5, 56 votes short of nomination.

As many as 40 of the 56 could come from Connecticut inasmuch as John Bailey has sent word he won't be interested in Humphrey if he loses California. A really good showing in New York could add another 10 and it might be possible to pick up another two or three among the genuinely uncommitted in New Mexico, Colorado, Utah, Virginia, Tennessee.

Except for Mississippi, McGovern delegates aren't in any real danger from credentials fights. As of now, there's only one other case in which the McGovern camp may have to go to the convention floor to get its "fair" share—Texas. This could end up as the nastiest credentials fight of all, with McGovern and Wallace forces joining hands to keep "the Connally crowd" from short-changing them. The trouble started in the district meetings and McGovern backers are carefully documenting all their facts in preparation for a bitter battle. However, it's hard to believe a Connally-oriented delegation would be very popular at a Democratic convention in 1972.

McGovern isn't going out of his way to get involved in the rash of credentials fights lest he lose a chance at votes needed at the end. For example, a McGovern aide said they had "no position" on the emotionally charged challenge to the Daley delegation.

A check of where the loose voters are lends credence to the analysis of Rick Stearns, the able young veteran of the McCarthy crusade who built the McGovern effort in nonprimary states block by block with such outstanding results. "Any 'stop-McGovern' movement" he says, "has to be a southern strategy with alliances with a few crumbling city machines. It's a measure of that strategy that it would have to be largely backed in the one area of the country the Democrats have the least chance of carrying." (He might have added, it's the most discredited strategy in recent political history.)

Added to the Wallace bloc in the South (mostly Alabama and Florida), there are a handful of governors—West in South Carolina (he controls about 30 votes), Carter in Georgia (another 30), Bumpers in Arkansas (25 of 27 with Mills' help), Edwards in Louisiana (maybe a dozen)—plus the scattered blocs of moderates and conservatives in Virginia, North Carolina, Tennessee and Texas (the Connally bloc's fair share is about 50 to 60). Add Ford of Kentucky (38 to 47) to the governor's bloc and you have several hundred delegates for a starter.

Outside the South, it's much the same. Mayor Daley will influence as many as 100 and there's another handful of governors with smaller blocs—Hearns of Missouri (say 50), Burns of Hawaii (15 of 17), Docking of Kansas (14 of 15). Plus a couple of senators—McGee of Wyoming (7 of 8) and Jackson of Washington (44). If Muskie wants to fight hard, he can probably influence up to 70 of his delegates, including a handful on the McGovern list of recruits. Then there will be the Humphrey bloc of up to 400 delegates plus scattered Wallace voters in the North. Added together, it's not that impressive.

But "stop somebody" movements are in the nature of convention politics. Rumors are already afloat that a plot is being hatched in the AFL-CIO headquarters in Washington to revive the Birch Bayh candidacy on the grounds that he's young, attractive and "liberal" and can peel off some of those McGovern delegates. That egg will never hatch.

Can a "southern strategy" be put together to stop a man who will have his fingers on the nomination if he carries California? Or, to put it another way, would such political soul mates of McGovern's as Udall, Church and Hughes, to say nothing of Muskie, take part in such an effort? It's hard to believe they would and, without them, it would be doomed. Meanwhile, McGovern's managers can pick and choose from among dozens of minor political potentates to make those inconsequential deals for an extra dozen delegates here or there.

If McGovern should lose California, he's already in such a strong position he's almost certain to go into the convention with 1000 delegates or more, still have a slim outside chance of winning it and, at the very least, have the one thing his critics are casting about to find, namely: the power to block.

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Looking Backward

Wallace Money

by James R. Polk

Even before the bullets of a misfit from middle America cut down George C. Wallace in a Maryland shopping center May 15, his campaign was rushing headlong to a halt. After the Michigan and Maryland victories only hours away, there was no place left to go. Wallace still has won more votes and more primaries than anyone else heading for Miami Beach and commands sympathy impossible before, but he'll still be only a tragic figure among the supporting actors.

Wallace delegates are lacking and always were. After reaching 312 with the two election triumphs from his hospital bed, Wallace had just one-fifth the number needed for the nomination and scant prospects of gaining more. He already had passed up a place on the ballot in California's crucial primary, and his organization in caucus states was shoddy and thin. He had campaigned only lightly in Wisconsin and Pennsylvania where second-place showings brought front-page comment, but only two delegates. Not even all his elected delegates were loyal to him, and the erosion is certain to begin as soon as the first round of the convention balloting is over. Placed against the memory of the superb Wallace organizational effort in 1968 to get his third-party ticket on the ballot in all 50 states, the shadow-boxing of 1972 is all the more puzzling.

Both money and manpower have been lacking this year, Wallace's campaign director contends. The strain of running a race for either governor or President in every election year since 1962 was finally wearing, said a wealthy backer. The candidate himself may have thought his pursuit of the nomination was only a pipedream until recent weeks.

None of these explanations is wholly satisfactory, but if money is a barometer, the Wallace campaign *has* been bumpy from the beginning. In each of the last two governor's races in Alabama, Wallace forces spent nearly as much as they have in all presidential primaries this time. From Wisconsin on, Wallace used only $659,000 through the day he was shot. Even then, he ran in the red a couple of weeks. "Money is tight," campaign manager Charles S. Snider said at the start of May. "We don't have any big contributors. We have to depend on what comes in from day to day."

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Wallace fund-raising has been run from his campaign headquarters outside Montgomery. Flanking the one-story metal building are swamp oak and pecan trees draped in Spanish moss; raspberries grow wild on a creek bank behind the building. In front is the Selma Highway where Dr. Martin Luther King once marched in the vanguard of a movement that had brought Wallace to the fore as a foe. Soft-voiced secretaries sit at two reception desks, typing labels and lists of campaign donors between answering telephone calls. Snider, who wears muted mod clothing and a college fraternity ring from the 1950s, has a corner office where spring rainstorms drumming on the metal roof can drown conversation. Storage rooms in the rear are piled high with Wallace bumper stickers, buttons, books, wristwatches, records, red coats, hats—all for sale in what sometimes seems to be the fried chicken franchise of American politics.

For his money, Wallace is still a regional candidate. A check of campaign spending reports shows two-thirds of all contributions listed are from the South—usually Louisiana, Alabama, Texas or Florida. Most of the Wallace donations are small; 69 percent of all the money raised comes from either the little giver who sends less than $100 or from the Wallace rallies and mail-order souvenir sales.

Sen. McGovern's percentage of small donors is almost as high, with richer results. McGovern has raised twice as much as Wallace from the $100-and-under contributors, because he has more givers. In contrast, Sen. Humphrey is living on borrowed money. Less than five percent of his funds come from small donors; more than half the campaign cash has been loaned by a handful of big backers. Campaign filings before the California primary showed Humphrey's drive owing $723,263 in loans, most of it to six persons led by Joseph E. Cole, head of a Cleveland key firm, and Meshulam Riklis, chairman of Rapid American Corp.

Coming out of Maryland and Michigan, Wallace had raised more money in direct contributions on record than Humphrey—a surprise matching the '68 race when Wallace also had more actual donations than Humphrey's debt-ridden struggle. But the Alabaman has been unable to equal either McGovern's broad cash support or Humphrey's narrow access to big lenders and spenders. Wallace's largest backing has come in a $20,000 bundle from the family of late Louisiana segregationist Leander H. Perez. Two sons and

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a daughter gave $5000 apiece, and Perez business connections in New Orleans combined for another $5000. Other leading Wallace contributions on record under the new campaign disclosure law include $5000 from John P. Kuchta, head of an offshore drilling firm in the New Orleans suburb of Belle Chasse; $5000 from Mrs. Jean Scullin of Houston; $5000 from Mrs. Richard J. Carrere, whose husband is in New Orleans real estate, and $9000 from Dwight E. Coffman, a retired factory owner in Washington Court House, Ohio. Coffman, a Wallace friend, gave another $10,000 earlier.

The Wallace shooting left donors determined to continue their backing if asked. "I'm 100 percent behind him," said $1000 giver J. H. Bigbee, a construction owner in Tuscumbia, Ala. "It's more than a man, it's an issue," said $2000 backer Leon H. Sampson, head of an optical firm in Farmington, Mich. Houston motel operator Fred J. Banack, a $2000 donor, said, "If he needs it, yes, I'll always dig up something someplace." Only a Wallace, a McGovern or a Barry Goldwater has attracted such deep loyalty from donors in recent elections. Those who give for ideological reasons—not the smart money from special interests—tend not to give to the man in the middle.

Wallace, like Goldwater, actually finished his last presidential campaign in the black. He spent more than $7 million, yet had $900,000 left over the day after the election to pay remaining bills and help keep the Montgomery machinery going for 1972. But with this year's donations lagging behind '68, something has rusted. The change from American Independent nominee to Democratic darkhorse may have narrowed the flow of money, Snider said. "In '68 they realized what they were contributing to was a candidate already on the ballot," he said in an interview before the shooting.

But missing also this year has been Wallace's widespread use of state officials, state organization, state equipment and state time to run his campaign. No connection is acknowledged with the long Justice Department investigation of campaign funds in Montgomery, Alabama, last year. But some of the traditional sources of aid and comfort in southern politics have evidently dried up. Federal grand juries returned five sets of tax indictments last fall. A textbook supplier in Birmingham was charged with tax evasion in using phoney advertising invoices to conceal a $25,000 contribution in the 1966 gubernatorial race. Wallace's former state finance director, Seymore Trammell, was indicted twice. His former state docks director was charged with tax evasion and false returns involving $85,000 in alleged bribes and kickbacks, and was convicted on one of eight counts.

What the Justice Dept. suspected and couldn't prove, or wouldn't prosecute, went much further. For example, the investigation report listed a $110,000 loan from the Central Bank & Trust Co. in Birmingham to the 1968 Wallace presidential campaign, but the government decided not to go to court even though it was prosecuting other banks in Ohio and Texas for campaign loans to Democratic governors. (The law has since been changed to make political bank loans legal.)

Investigators for the Internal Revenue Service traced a fee-splitting arrangement on bond issues to the doorstep of Wallace's brother, Gerald. A Birmingham attorney admitted paying $60,000 to Alabama's speaker of the house, Rankin Fite, after handling two bond issues for highways and junior colleges. The sum was split with Gerald Wallace. Trammell was quoted as saying he was "only carrying out instructions given me by Gov. Wallace" when he told the bond attorney to pay the money.

The still-secret Justice Department summary of the investigation said the arrangement "falls far short of extortion" and no other federal crime was involved. Montgomery newspapers later said Fite and Gerald Wallace both reported the fees on tax returns for their law firms. Gov. Wallace has said he left his brother's law office in 1962, but each yearly edition of the nation's leading legal directory lists him as a member of "Wallace and Wallace."

The grand jury also groped for answers on payoffs for state contracts for asphalt dealers, highway equipment suppliers and liquor firms, but came up empty. The Justice Department memorandum said, "Most of the witnesses whose testimony is essential to expose such practices as bribery and kickbacks to state officials are businessmen who are still benefitting from the system and will not, therefore, blow the whistle." The secret government report said the investigation "had a laudable aim—to uncover and put an end to widespread corruption in the state government in Alabama." It said it failed because "the corrupt practices at which is was aimed are so firmly entrenched" that the needed evidence did not surface. A Justice Department official guiding the probe put it a different way: "You don't jump into a bear pit with a bear unless you make damn sure you've got him by the tail."

Gov. Wallace was never directly involved in the investigation, and no evidence emerged to link him with any phase of it. A former Wallace campaign figure named in the indictments said last year, "He just plays the piano; he doesn't know what goes on upstairs."

Earl Goodwin, a Selma farm equipment businessman under indictment for tax fraud conspiracy involving a $3000 contribution, served as Wallace's campaign coordinator in the Alabama presidential primary May 2. But financial outpourings from firms

COMING: a close look
at the Democratic Party
by James MacGregor Burns

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dealing with the state are absent from the 1972 campaign. One $500 contribution was found from an engineering head in Mobile. Two architects in Gadsden gave $1000. Another $1000 came from the Tuscumbia construction owner. A Clayton banker holding state deposits also gave $1000. But the sums are insignificant.

The amateurish aura of the Wallace campaign headquarters argues against anything more difficult than a fairly complete and honest filing under the new election money law. Duplications of donation listings for the Gadsden architects, the Tuscumbia construction man, a Pennsylvania businessman, and a Mobile farm manager who was formerly a member of LBJ's President's Club were found in the Wallace filings, but these appear to be bookkeeping mistakes. The only question raised concerns an $8000 loan listed in the name of Birmingham insurance man Frank M. Lynch. "That was many contributions lumped under my name," Lynch said. "I will eventually turn in all the names." The new law prohibits making a contribution under another person's name.

Wallace's headquarters has been guarded about its campaign books, and it's impossible yet to measure what impact the assassination attempt will have on the $16,000-a-day mail deliveries. E. W. Bromwich, a St. Louis tool and supply business man who gave $2000, said, "I think it's a shame. It's terrible. I don't know if he can go on. If he does, I'll support him."

Making the Case for Congressional Amnesty

by Michael K. Wyatt

As a successor to the 1952 Republican bugaboo of communism, corruption, and cronyism, attacks on McGovern have involved a new triple-threat: busing, marijuana and amnesty. The issue of amnesty is not the least of these, for between 75,000 and 100,000 American draft evaders and military deserters remain in exile, mostly abroad. The Defense Department listed 35,249 deserters at large in December of 1971, and various Canadian and American official and unofficial sources have estimated that 40,000 to 70,000 draft evaders have taken up semi-permanent residence in Canada alone. This January, Canadian authorities reported that about 80 American draft evaders and deserters were still entering Canada each week. Swedish authorities report that 500-1000 deserters (mostly from European NATO bases) have settled in Sweden. Exiles have been reported in England, France and Japan.

Most of these deserters and draft evaders cannot be extradited involuntarily under existing US treaties. Most will not return voluntarily because of the stiff penalties they would face. Thus, if the political and moral judgment is made that this country wants these men back (and by no means everyone in Congress concurs), some form of congressional or executive amnesty will have to be granted. President Nixon and Defense Secretary Laird have indicated recently that they might favor some kind of conditional amnesty for Vietnam war resisters—once the fighting stops and the POWs have returned. Selective Service Director Tarr appeared to agree with this position as a long-term goal during the amnesty hearings some weeks ago before Senator Kennedy's administrative practices and procedures subcommittee of the Judiciary Committee.

Although Article I, sec. 2 of the Constitution gives to the President alone the power to "grant reprieves and pardons for offenses against the United States," and although the Supreme Court has held this power to be subject to no congressional or other limitations, Congress can exercise a parallel power simply by repealing the desertion and evasion offenses or the punishments attached to them. This power has been used sparingly in the past, however, and apparently never to effect an unconditional amnesty for an entire class of offenders such as Vietnam draft evaders or deserters. Neither Congress nor the President can constitutionally limit each other's amnesties, although apparently either could expand an amnesty granted by the other. For example, if Congress approved an amnesty for draft evaders but not deserters, the President

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could grant amnesty to the deserters. But if the President granted amnesty to deserters and evaders, the Congress could not legally limit the grant to evaders.

There are a number of practical differences between presidential and congressional amnesties. A presidential act, which can be invoked by executive fiat, appears quicker and simpler than a congressional amnesty—perhaps this is why presidential amnesties have far outnumbered congressional amnesties and have generally been broader than the statutory variety. However, an amnesty growing out of compromises in Congress would probably be more acceptable to the country than one from the White House. This acceptability would make life easier for the returning evaders and deserters, who can expect to meet with considerable hostility. Also, Congress can more easily set up a nationwide amnesty apparatus by authorizing such statutory agencies as draft boards, the Justice Department, or DOD offices at military bases, or the federal courts themselves, to handle claims for amnesty on a case-by-case basis in a rational and consistent manner. Such a system seems superior, for example, to President Truman's 1946, three-man Amnesty Board. True, the Truman Board was assisted by 16 staff attorneys, who apparently compiled data on each of 15,805 draft evaders (deserters were excluded); 1523 were ultimately pardoned by the President on the board's recommendations. But since the three-man board met only on weekends and holidays, a quick calculation reveals that each case was dealt with in slightly less than five minutes on an average. Surely a decision which can so profoundly affect the lives of so many should not be made without some form of hearing, or in such a short time, or on the basis of unpublished (and probably nonexistent) standards, and by individuals who, no matter how well-meaning, are responsible to no court or other outside appellate authority. A congressional amnesty could avoid arbitrary results by creating a new agency to process amnesty claims, or by adopting an existing agency's standards for notice, hearing, presentation of evidence, appeals.

The movement for a post-Vietnam congressional amnesty first bore fruit in Senator Kennedy's Selective Service Act of 1971, the last section of which requested the President to study the appropriateness of amnesty for draft evaders (but not deserters). Following the defeat of that provision, Rep. Edward Koch (D, NY) introduced HR 832 in early 1971 which would, in effect, provide a kind of limited amnesty for both draft evaders *and* deserters, by allowing both to return and attempt to obtain conscientious objector (CO) status retroactively under judicially and administratively expanded CO standards. Koch also submitted another bill to broaden those CO standards by permitting "selective" conscientious objection (objection to the Vietnam war but not to all wars)—a concept which the Supreme Court refused to read into the existing CO statute last year in the case of *Gillette v. US*. Then, last December Senator Robert Taft (R, Ohio) introduced his proposal, conceivably an administration trial balloon, to provide amnesty for draft evaders, but not deserters, on condition that they enlist for three years in the armed forces or perform three years of alternative service in VISTA, veterans hospitals, or some other public service agency. Rep. Koch has submitted a companion bill in the House.

There are a number of important differences between Koch's original bill and Taft's. Koch said last year that his proposal, unlike Taft's was "not an amnesty bill. . . . It only provides that should we decide that we have unjustly discriminated against the selective conscientious objector—which I believe we have —the newly secured justice would be extended to those who all along have been selective conscientious objectors. We are asking for justice for these young men—not amnesty." Koch would give returning evaders and deserters a "second chance" (as he calls it) at obtaining CO status under more lenient interpretations. Koch is aware that the recent Supreme Court decision of *Welsh v. US* (1970) permits nonreligious conscientious objection, and relaxed Selective Service CO standards themselves now make it easier to become a CO. So Koch thinks it is only fair to allow evaders and deserters to return to try to qualify under the more liberal standards. Logically this rationale would only apply to those who actively sought and were refused, or who left the country because they thought they could not obtain, CO status. Yet Koch's bill would apply to *all* evaders and deserters (as well as to those in jail and currently in service). His plan has the merit of using the existing Selective Service System apparatus as a nationwide amnesty mechanism, unlike Senator Taft's bill, which would authorize the attorney general to set up a *new* parallel agency with conflicting rules and regulations. The scope of permissible CO occupations obtainable under Koch's bill is narrower than under Senator Taft's, which would authorize the attorney general to permit evaders and deserters to work for VISTA, veterans hospitals, public health service hospitals, "or other federal service, as the case may be." Senator Taft's staff say this last phrase was selected so as to leave the permissible alternative service open-ended.

Koch's offer of a second chance at CO status is probably morally and politically unacceptable to a great many exiles, and in any case would prove too risky, since, as he said in hearings last year: "Should the claim for CO status be denied, he who was in prison would be returned to prison, he who was in combat would be returned to his original assignment, and he who came from exile would be subject to immediate arrest by the FBI."

By contrast, Senator Taft would extend amnesty to

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all draft evaders requesting it, without risk of imprisonment for failure to "qualify," on condition that they enlist in his specified public service agencies for three years. Further, Taft's bill includes a congressional resolution asking the President to declare a general executive amnesty. This combination congressional-administrative amnesty would seem to provide the maximum legal forgiveness and removal of adverse collateral effects, but the President would probably prefer the more passive refusal to veto an amnesty bill to the active grant of an amnesty requested by Congress. Nevertheless, Taft's bill covers only draft evaders, not deserters, whereas Koch covers both. This evader/deserter distinction may become the center of the storm over amnesty. There are a number of reasons why deserters *should* be granted amnesty along with evaders.

Most deserters, unlike draft evaders, already have a sort of unofficial amnesty. Deserters who are apprehended are usually given mild sentences, if any, for lesser offenses like going AWOL. Many lose their rank and forfeit pay earned while absent; others are simply discharged dishonorably *in absentia*. Some remain in foreign countries like Sweden; others filter back and are never found by the overworked and understaffed military police. By contrast, a higher percentage of draft evaders is picked up and a conviction may carry a stiff fine, a sentence up to five years and the permanent stigma of having been convicted of a federal offense. Draft evasion cases are sometimes dropped if the accused agrees to join the military. A scheme permitting both evaders and deserters to return without punishment and sign up for public service jobs would be preferable to this capricious and irregular execution of forgiveness.

Contrary to Selective Service Director Tarr's testimony that amnesty now might provide a "precedent . . . that might someday be an unwelcome tradition," deserters have in fact received amnesty throughout our history. In 1807, President Jefferson absolutely pardoned all US army deserters then living abroad, on condition that they turn themselves in within four months and resume their duties. Similar amnesties were extended to deserters by President Madison in 1812 and 1814, and by President Jackson in 1830. Presidents Lincoln and Johnson extended amnesty to all soldiers of the Confederacy during the Civil War, and they were not only considered deserters, but were presumptively guilty of treason as well. Nevertheless, the Supreme Court, in *Ex Parte Garland* (1866), approved the Lincoln and Johnson amnesties, and the President's power to grant amnesty has not been challenged in the courts since. In this century most of those who deserted after the First and Second World Wars were given partial amnesties restoring all their civil rights.

Senator Taft has said that he distinguishes between draft evaders and deserters because he considers deserters a "military problem" to be solved by the military, and because it would be wrong to grant amnesty to deserters when nearly 50,000 servicemen have died in Vietnam. He doesn't explain why the military alone should deal with deserters. Congress created the military court system, the Uniform Code of Military Justice (which contains the desertion offense), the federal courts, the Selective Service System, and the penalties for draft evasion and desertion. There's no apparent reason why the Congress cannot now remove both offenses from adjudication or, if it wished, simply suspend the penalties attached. By the same token, the President's constitutional role as commander-in-chief buttresses his power under Art. I, sec. 2 to grant a general amnesty to deserters as well as evaders, were he asked to do so by Congress. And as for the fear that amnesty for deserters administered on a case-by-case basis would disrupt the military justice system, since it would be laborious to distinguish those who fled for justifiable moral reasons from those who simply fled out of fear or boredom, the remarkably high desertion rates in recent years (73 per thousand servicemen in 1971, as compared with about 20 per thousand on average during the Korean War) suggest that military morale is about as low as it can get.

The point that amnesty is so unfair to the dead has been echoed by the Pentagon, the American Legion and, rather emotionally, by parents of deceased GIs. The argument obscures several important thoughts. It is claimed that deserters may have endangered the lives of others they abandoned on the battlefield. But this does not apply to deserters, a majority, who ran away from bases outside Vietnam, many of whom have already received unofficial amnesty. Moreover, on Senator Taft's reasoning, draft evaders are just as guilty, having forced others onto the battlefield by leaving empty gaps in the draft quotas. It could even be argued that evaders who fled prior to knowing whether they would be sent to Vietnam, have a moral claim inferior to that of deserters, who fled from Vietnam or after receiving orders to go there.

It is said, finally, that granting amnesty now to deserters would make it difficult to enforce the draft and continue to raise an army. But the President's proposed plan for an all-volunteer army would render the draft obsolete. Moreover, the nation has always been able to muster armies, though amnesties have been granted in the past. As to whether amnesty for deserters is offensive, especially to the families and friends of the dead, one must ask whether amnesty for evaders is any less offensive? At bottom, one is left with the conclusion that Senator Taft is really saying that the political mood of the country might tolerate some form of conditional amnesty for draft evaders, but not for military deserters. He may be right. But the dead cannot be brought back. What we *can* do is try to bring back the others.

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Stanley Kauffmann on films

Facts, Plain and Fancy

Malcolm X (Warner Bros.) Marvin Worth and the late Arnold Perl made this documentary, based on the autobiography as adapted by Perl. It's a straightforward compilation of newsreel and television footage, with some narration by James Earl Jones using Malcolm's words and some of Ossie Davis' eulogy from the book, spoken by himself. The film synopsizes Malcolm's life: the impoverished childhood, the criminal youth, the astonishing self-revision, his devotion to the Muslims, his trouble with the Muslims, his still-unsolved murder in 1965. (Some think the Muslims killed him; some think that white powers had him killed, knowing that Muslims would be suspected.)

The figure of Malcolm X is even stronger than I remembered; his mind quick, his spirit fierce, his polemics powerful. With the exception of Dr. King, whose strength was quite different, I know of no black leader with Malcolm's command. He contradicted himself, as this picture shows, but anyone who speaks in public for a long time contradicts himself; his programs were arguable (and were argued); but he was a magnificent force for shaking the psyche of the black man and woman free of the race conventions of American society.

He was trouble in his life, he is trouble now. The press reports that some black people who have seen this film object to the "near-beatification" of Malcolm X, and they point out that white media venerate black leaders only after the leaders are dead. Beatification or not, the film conveys two points clearly. First, the story of Malcolm X is one more instance of a tragedy that recurs in history. A man belongs to a group of believers, and, growing in his belief, is by that fact separated from the group, and one way or another his life is then shattered because of his belief. Second, like George Jackson, Malcolm X had something of genius.

The Trial of the Catonsville Nine (Cinema 5). Once in a while we get a film that makes the theater seem more wonderful than ever. Such a film, for instance, was Jonas Mekas' *The Brig*, which attempted to render in cinema Judith Malina's excellent production with the Living Theater. Cutting in and out, chopped into two-shots and three-shots, flipped into varying angles of vision, the picture was like a series of distorted details from a good canvas. *The Brig* was a theater work, and got its values from tensions possible only within fixed theater space, from a sense of time that the audience *knew* was passing during its presence.

Now Gordon Davidson has done his own bungling of *The Catonsville Nine*. His theater production of Father Daniel Berrigan's play was extremely moving (*NR*, March 6, 1971). His film is the wrong kind of painful. Again the cinematic form has merely fractured what was an excellent design and has supplied nothing in its place. Besides, Davidson has found three further ways to injure his own good work.

First, in New York this play, about the nine Catholics who burned draft files in 1968, was presented in a church. The place itself tacitly underscored the theme. Now, the film courtroom has been designed to suggest a church (even though the room where the defendants confer is "straight" courthouse). The theater place was a fact; the film place is factitious.

Second, Davidson has intercut newsreel footage of Vietnam atrocities. His one use of newsreel at the end of his stage production was his only notable lapse. He compounds it here, with heavy-handed emphases and disruptions of texture.

Third, on the way to the screen he has allowed his cast to do precisely what he kept them from doing in the theater. They have almost all become self-consciously brave declaimers. An artwork has been changed to an editorial. Only Donald Moffat, an ex-priest, William Schallert, the judge, and Davis Roberts, the prosecutor, resemble human beings.

Unquestionably, this play could have been better filmed. Unquestionably—for me, at any rate—it is a play. Haskell Wexler's gooey, slithering camera and Davidson's cinematic ambitiousness have only marred Berrigan's work in an attempt to give it wider currency.

The War between Men and Women (National General). One thing that might help me to believe in earthly justice would be if Barbara Harris became a big star. Technically she is a star already, of course, but I mean a Big Star. The only thing I can see that's holding her back is that she doesn't spell her first name Barbra (thank heaven). I could list all the Harris assets, but it might be easier to say that if filmgoers need, as they certainly do, a sexy, charming, funny, and moving star, with touches of Jean Arthur and Claudette Colbert and Irene Dunne but mostly of herself, they need look no further.

Well, they may have to look further than this new film of hers. She is fine, and Jack Lemmon, that superb comedian who has been behaving rather

(continued on page 34)

Films Worth Seeing

Cabaret. Isherwood's Berlin is the rather remote begetter of this glittery musical. Much better than average, just not as important as it thinks.

A Day in the Death of Joe Egg. An English couple with a helpless spastic child. Peter Nichols, the author, Alan Bates and Janet Suzman, the couple, play breezily *against* the obvious pathos for some real pathos.

Gumshoe. A breezy but bored Liverpool night-club comic opts for the Bogart life and lingo. Albert Finney keeps the fantasy funny.

The Hospital. George C. Scott blasts off in a wobbly but often bright Paddy Chayefsky script about a middle-aged New York doctor and his young doxy.

Pocket Money. A modern, funny anti-Western. Paul Newman and Lee Marvin are endearing as two cattle-buying bumblers. Rambles, but very pleasantly.

The Sorrow and the Pity. A 4½ hour documentary—the shortest 4½ hours conceivable—about occupied France and some survivors today. Intelligent, humane, truly unforgettable.

Tokyo Story. A gentle masterpiece by Yasujiro Ozu, about parents and children and the passage of one's life. If any of these subjects happens to interest you, insist that a local manager book it—from New Yorker Films.

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Norman Mark on TV

Christmas Every Day

My Bob Hope watch was given to me because it advertises a televised golf tournament which featured the comic as host. I was also given an "Everything Tool"—a wrench, screw driver and pliers which advertised an ABC-TV Movie of the Week titled "Gidget Gets Married." A good friend of mine even received a memorable Christmas gift from me that I didn't buy—a candlestick autographed by Liberace.

A TV critic for a major newspaper seldom has to go a day without opening presents. They arrive in the mail, pretty girls deliver them with a smile and a message from the sponsor, press agents use them as opening ploys for conversations about the programs or stars they represent. The nice people who send these nice gifts are seldom thanked, but they keep at it. They also stage junkets. Each year, for example, usually in June, there is a great gathering of TV critics in Los Angeles, to meet the new stars of the fall TV series on ABC, CBS and NBC. Usually some side trips are arranged (this year it is to Las Vegas to meet Bill Cosby and to San Francisco to see an ABC detective series being filmed there). Liquor flows in the hospitality suite, and within eight hours of receiving any dirty clothes the hotel returns them spotless, with a red ribbon tied in a bow around socks and shorts.

Once upon a time the movie industry spent bushel baskets of money on junkets for newspapermen, but those are getting scarce in these days of Hollywood hardship. Television is now king instead, and the newspaper critics (and managers of affiliated stations) are the pampered jesters.

Some newspapers take a high moral attitude and refuse to accept the gifts and junkets, but most feel that their man cannot be bought for a collection of screwdrivers. Besides it keeps low-paid help mollified. So the junkets and gifts are treated as perquisites of the job by the critics, and I must admit I rather enjoy living for a week and a half the way the actors and producers I write about are supposed to live all year long.

Recently ABC-TV uncorked the junket to end all junkets, a five-day all-expense-paid bash which probably gave half the TV critics in the country cirrhosis of the liver. It will long be talked about whenever true connoisseurs of freebies gather.

Call it "The Selling of the Olympics," because it took TV critics to Munich, where the Olympics would be played more than three-and-a-half months later. Our arrival was greeted by an oompah band. Our hotel rooms had souvenir beer mugs, shawls, matches and a six-pack of assorted beers.

Wednesday: A bus trip to Ruhpolding in the Bavarian Alps, where tooting Alpine horns welcomed us to a picnic. The critics from Chicago played frisbie in the drizzle.

Thursday: A night at the opera followed by a catered supper in a private room in the opera house. We suspected this was an attempt by ABC to raise the cultural level of America's critics by exposure to "The Bartered Bride," but its effects on newspaper writing about television are not yet visible. The wine served was 1970er Thungersheimer Neuberg Silvaner natur, and after the avocado filled with fresh crabs came filet of steer with stewed cucumbers, grilled tomato, fresh asparagus tips and filled mushroom caps.

Friday: The critics began doing their version of the Wide World of Opera, a new series they proposed for ABC's fall schedule. They went by bus to the Nymphenburg Palace, which they toured, followed by lunch at the Schleissheim Palace. That night six horse-drawn carriages took us through Munich to the Stuck Villa, where another catered meal and band dressed like Chicago gangsters of the '30s awaited us. We danced to "I Found My Thrill on Blueberry Hill."

Saturday: After a tour of the nearly empty ABC-TV technical facilities, the critics went to the Methazer Beer Hall, where Longines watches set up a demonstration of log cutting so we could see how Olympic events will be timed. We got three kinds of snuff.

Oh yes, each morning was spent touring the site of the games and listening to beautiful, intelligent German hostesses telling us that the high divers would reach their boards via elevator.

I was favorably disposed towards ABC-TV's Olympic coverage before I went to Munich. ABC-TV generally does a fine job of sports coverage. There was no reason to believe that the network would make major mistakes when two solid weeks of prime time, the last week in August and the first week in September, are committed to Olympic coverage. Too much is at stake for that to happen. Now, however, I believe ABC-TV will do a superb job. Is that because of what I saw at the site or because of The Selling of the Olympics? Did ABC-TV buy my favorable opinion?

I think about that for about 10 seconds every week or so.

Elegy for a Woman Who Remembered Everything

She knew the grades of all her neighbors' children, the birthdays
Of cousins once removed, the addresses of friends who had moved
Once at least—to the coordinates of cemeteries
Where their choice views lay over their front feet.

If it had a name or a number, she missed nothing:
A mailman's neck size, the unpronounceable village where the dentist's
Wife's half-sister ruined her kneecap, an almanac of sutures,
The ingredients of five thousand immemorial crocks.

Her ears were as perfectly pitched as a piano-tuner's.
In the maze of total recall, she met with amazement
The data of each new day, absorbed the absorbing facts and the absorbent
Fictions of everyone's life but her own, losing the thread

Of that thin tracery in dialogue hauled back verbatim
Through years leaning cracked and crooked against each other.
Death, you may dictate as rapidly or incoherently as you wish:
She will remember everything about you. Nothing will escape her.

DAVID WAGONER

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The Continuity of Love

The Optimist's Daughter

by Eudora Welty

(Random House; $5.95)

Admirers of Eudora Welty's work have had a busy time of it since their *first* sight of *The Optimist's Daughter*. It was published in *The New Yorker* in the spring of 1969. At that time I was putting together an issue of *Shenandoah* as a tribute to Miss Welty, to which Reynolds Price contributed a detailed reading of the story, calling it her "strongest, richest work"—which was saying a lot but not, in my opinion, too much.

But that was before the publication, in April 1970, of the comic and epic *Losing Battles*, a long novel overflowing with both youthful energy and a serene, impartial wisdom. It was a book that a writing career and a body of work even as distinguished as Miss Welty's had hardly prepared us for. With the exception of *Delta Wedding*, her work had been essentially miniaturist: much in little, the perfectly controlled and executed novella and short story. As John Aldridge noted in his review, *Losing Battles* challenged Faulkner on his home ground, in ambitiousness and scope.

Then Random House published last year Miss Welty's photograph album of her Mississippi neighbors in the 1930s, *One Time, One Place*. An object lesson in the proprieties of photographing other human beings, it showed us definitively that the documentary camera is not necessarily a savage or a sentimentally condescending eye but can have the complexity and truthfulness of vision of a gifted novelist. The preface, written over 30 years after the taking of the pictures, tells the reader as much about Miss Welty and her fiction—but indirectly, obliquely—as it does about the photographs.

Now, to further complicate our responses, to disarm our complacent notions about what the proper limits of energy and invention are, *The Optimist's Daughter* appears in book form, with the deceptively understated information that it "appeared originally in *The New Yorker* in a shorter and different form." To be specific, she has added 10,000 words to the original 30,000, has changed names, altered the order of some scenes, subtly modified some of the characters, added much to our knowledge of the protagonist's past and present. She has re-written and re-thought the book, so that it is both essentially the same and almost everywhere slightly different. To compare the two versions is another object lesson: we can observe the evolution, the accretion of a work of art as it is shaped by a master of narrative.

The story is stark and simple in its outline, a depiction of the trauma we suffer in witnessing the death of parents, in burying them. It's the order of nature: it occurs when most of us are middle-aged when we have learned, we think, what we are going to learn. An old dog learns new tricks. When before *have* we grown up? With our first job, with marriage, with the first child? Maybe, but they are not the same kind of event as this odd, painful liberation, which pulls the mind inward to a contemplation of our own lives as we witness the end of and make some final judgment on the lives of our parents, as we step free of them toward our own death.

The story told here, of course, is much more than its outline, as any story is. Laurel McKelva Hand flies hurriedly from Chicago to New Orleans, where her father is to undergo an operation. It is apparently successful, but Judge McKelva doesn't respond as he should and slowly drifts into death. Laurel and Fay, the Judge's young second wife, accompany the body back to the small Mississippi town where Laurel grew up and where her father still lived. The rest of the novel deals with the funeral, the gathering around of her friends and her father's friends, and Laurel's straightening out her affairs before she returns a few days later to her job in Chicago.

The abrasive conflict at the center of the novel is between Laurel and Fay. The usurping step-mother is younger than her step-daughter; she is not from the right sort of people, she's mean-spirited, totally self-absorbed. A blur of gold buttons and cheap costume jewelry, she bewails missing Mardi Gras; the judge is thoughtless enough to die on her birthday. But the real problem is not, I think, Fay's being unsuitable or unworthy; her entrance into Laurel's father's life is menacing in some as yet unspecified way, a deep wound, the desecration of holy ground, as Laurel makes explicit to Fay toward the end of the narrative. What is further involved here is a brooding on the nature of family and relationship itself.

It is only well into the story that we learn that Laurel is a widow, has been a widow for perhaps 20 or 25 years: her husband was lost at sea in World War II. She now presumably lives alone in Chicago, devoted wholly to her work as a fabric designer. It shouldn't surprise the reader then to learn that it was "still incredible to Laurel that her father, at nearly seventy, should have let anyone new, a beginner, walk in on his life, that he had even agreed to pardon such a thing." No beginner has walked into Laurel's life to replace her beloved Philip. Why? We aren't allowed much into Laurel's consciousness until the narrative begins to draw to a close, but we do learn that "her marriage had been of magical ease, of *ease*—of brevity and conclusion and all belonging to Chicago and not here," and that with Phil lost, "love was sealed away into its perfection and had remained there." *Ease, brevity, conclusion, perfection:* hardly the words to attach to the other relationships in the novel.

Instead, we are confronted with images of voracious need and hunger, love that is burdensome, endless, inconclusive, imperfect. At the hospital, Judge McKelva shares his room with crazy old Mr. Dalzell, who thinks the judge is his long lost son Archie Lee. Down the hall, the rest of the Dalzell clan, including the returned prodigal son, keeps its vigil. They are hilariously comic but something else too: steadfast, tenacious as snapping turtles. The Dalzells, gathered together in a lunatic confusion of loving gestures and burlesque pratfalls, are the first variation on the theme which builds throughout the narrative.

Fay has told Laurel that her family is dead, gone, every one of them: "Grandpa . . . that sweet old man, he died in my arms." But on the day of the funeral, a truckload of her family shows up: Fay's mother, a brother, a sister, a nephew—and finally Grandpa himself. In the midst of this long scene—which is, to my mind, brilliant beyond praise, a miraculous balancing of farce and the gravest pathos—Laurel recognizes what

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makes Fay's family seem familiar:

> They might have come out of that night in the hospital waiting room —out of all times of trouble, past or future—the great interrelated family of those who never know the meaning of what has happened to them.

Why don't they know? Because hunger, need and love are blind? (Literal eye trouble sends the judge to the hospital; Laurel's mother, Becky, had become blind and embittered in her long dying.) Toward the end of the book, as Laurel recalls her childhood vacations "up home" in West Virginia with her mother and grandmother, one particularly striking image stands out: the appearance of her grandmother's pigeons:

> . . . Laurel had kept the pigeons under eye in their pigeon-house and had already seen a pair of them sticking their beaks down each other's throats, gagging each other, eating out of each other's craws, swallowing down all over again what had been swallowed before: they were taking turns. . . . They convinced her that they could not escape each other and could not themselves be escaped from. So when the pigeons flew down, she tried to position herself behind her grandmother's skirt . . . but her grandmother said again, "They're just hungry, like we are."

What the grandmother accepts, acquiesces in, Laurel hides from in terror. I think the implication is clear enough: Laurel has borne this image of relation, dependency, need through her life, and it has in part determined her vision, her demand for freedom, flight, escape —for clarity, for the knowledge of what has happened to you. She *did* marry, but the brevity, the unreal perfection of the marriage stand in contrast to what the nature of dependence actually is.

The strongest and most mysterious scene in the book is the account of Laurel's last night at home. When she enters the front door, a chimney-sweep loose in the house drives her into her parents' room, where she spends the night plunging into memory, following out affectionately but remorselessly what her parents' lives were: the high promises of their beginning, the eventual decline into sickness of Laurel's mother, the terrible failure of love to prevent pain and loss, love's betrayal. But Laurel's settling of accounts, seeing clearly the inescapable doom awaiting any hope of contingency, ends in a surprising way, a melting of resolve—"She lay there with all that was adamant in her yielding to this night, yielding at last. Now all she had found had found her."—ends with the resurrection of her dead husband.

> He looked at her out of eyes wild with the craving for his unlived life, with mouth open like a funnel's. . . . What would have been their end, then? Suppose their marriage had ended like her father and mother's? Or like her mother's father and mother's? Like—

And it would have, wouldn't it? Their life would have ended in a blind blundering, the price paid for a lived life.

Fay's role in this painfully acquired knowledge of Laurel's is not a simple one, but I think it's something like this: Fay is Laurel's deepest fear, a figure of absolute isolation, totally incapable of love, in panicky flight from blood ties and the wounds of mortality, a grotesque parody of Laurel's own worst possibilities. In the showdown between Fay and Laurel in the novel's final scene, Fay is the instrument as Laurel affirms the shape of the lives of her parents, *lets go* of them, no longer tries to protect them—they don't need her protection, don't ask for it, they stand in memory in their complex and temporal imperfection, in their final dignity. Laurel returns to Chicago to what kind of life? No answer is given, but she has met a great fear and overcome it, "the deepest spring in her heart had uncovered itself, and it began to flow again." Or, as Laurel learns again, in her dream of Philip following his ghostly appearance to her—and what Fay does not know, cannot learn—life is meaningful and whole only in "the continuity of love."

James Boatwright

Hoopla for the Future

Intuition

by R. Buckminster Fuller

(Doubleday; $5.95)

Take Today: The Executive as Dropout

by Marshall McLuhan and Barrington Nevitt

(Harcourt Brace Jovanovich; $9.95)

Don Marquis used to
write like this a
lot and there are also
a number of so-
called poets who do so
and also
Buckminster Fuller who
does so:

> . . . there exists
> A synergetic progression
> Of ever more encompassing systems
> Of human experience discernibility
> Which are spontaneously
> differentiated
> Into unique levels
> Of cognitory consideration
> In which the contained micro
> Of any adjacent macro level
> Never predicts the existence
> Or the observed behaviors
> Of the adjacently next most
> encompassing
> Macro level complex.

Fuller is a fascinating eccentric who may also be one of our great minds. He is himself convinced that this is so, and his new book is a sort of demonstration of what a great mind should do with it-

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self on a good day. What should it do? It should generalize. The brain is limited to special cases, but the mind's prime function is to use its "syntropic capability" to understand all the simultaneous forces and factors zooming around in the universe, that is, to understand synergetics, which, it seems, Fuller himself discovered (though some of his illustrious predecessors like Archimedes, Galileo, Newton and Einstein were helpful in developing the concept) and which is "the omnirational, comprehensive/Coordinate system of Universe." If you start with Fuller's seventeen-ton ocean-cruising sloop, which Fuller is pictured on the dustjacket at the wheel of, and if you imagine all the forces converging on that sloop as it sails, and then shift rapidly to the image of spaceship earth sailing just like that sloop through the universe, then you have a start at the problems of synergetics. Unfortunately,

As of 1970,
World-around questioning
Of three hundred university audiences,
Averaging five hundred persons each,
Finds the word synergy—
As well as the phenomenon it identifies—
To be known to less than three percent,
Of university students or staffs.

As of 1970 also,
Persistent inquiry of general public audiences
Discloses a knowledge of synergy
By only one percent of general society.

So there's a job to be done. Humans "are born equipped to participate/In the supreme function of the Universe" but they tend to flub it. Mainly because they specialize too much. What needs to be done is to direct all "educational processes" to

The most comprehensive level
Of mental preoccupation,
And that level is the one
That consists of the earnest attempt
To embrace the whole eternally regenerative phenomenon
Scenario Universe.

There's also a long section about our inefficiencies ("world-around humanity's power-to-work/ . . . Is only about four percent," which Fuller is now "scientifically confident" we can increase to 16 percent) and an extraordinary section about eyes that seems to have been provoked by Artzybasheff's cover drawing of Fuller for *Time* in which the eyes, staring out of a head pictured as a geodesic sphere, seemed to Fuller very striking. He praised Artzybasheff for the likeness and the eyes, and received back word that "the only features that mattered to him/Were the human's eyes." From the Artzybasheff picture Fuller rapidly moves in his book to the "beam-relaying functioning of the eyes" and contemplates the possibility that even when one has a wholly new thought (and Fuller tells us that he has "made several mathematical discoveries/Of fundamentally unexpected and unpublished nature"), the thought may have been partly planted in one by looking at the heavens and thus inadvertently tuning in on knowledge out there in telepathic eyes staring piercingly across a few billion miles. Fuller's sloop and book are called *Intuition* in honor of all this, and on the dustjacket we are informed that the sloop was first over the finish line in a recent race off Woods Hole. Fuller himself would seem to have been first over the finish line with a variety of metaphysical speculations, but one wonders how he could possibly condescend to specialization long enough to keep a jib from flapping.

I felt slightly dizzy after finishing *Intuition*, but at least I knew what I had read. Fuller has an orderly mind and goes one-two-three through his now aging acrobatics (he is 76). I cannot say the same of my state after reading (but should I call what I was doing by such an old-fashioned word as "reading"?) the new McLuhan-Nevitt book. McLuhan and Nevitt also are hunting fiercely for the synergetic center of things—in their very first sentence they tell us of how art and science "reveal and exploit the resonating bond in all things"—but unlike Fuller they don't write their huntings down in verse, nor do they favor writing clearly. They are masters of apothegms that don't apothegm, such as: "*Bridges as extensions of man are resonating vortices of power*" (their italics). Or: "POSTURE AND IMPOSTURE AS WAYS OF LIFE NOW MERGE IN THE GLOBAL THEATER" (their caps). And unlike Fuller they are extremely disorderly: after their three short introductions and a brief history of how we arrived at the electrical age (which in turn has taken us back to the resonance—one of their favorite words—of the pre-Gutenberg world), they abandon continuity mostly and set about giving us a kind of encyclopedia (complete with an index for "eager readers") of the "interplay of man and his artifacts, as each remakes the other." Thus we are given advice for city planners, industrialists, bankers—in short the managers of the world—on how to conduct the vast business of coping with the future. How? Well, a little like what Fuller says, sort of. Step outside the specialty, study the gaps (which are full of resonance) *between* facts, things, ideas and cultures, see the earth as one unit (spaceship earth), don't rely on the effectiveness or truth of patterns in the past (Marx is all wet with his class dialectic but so are the big capitalists and capitalist-planners, like those still betting on the auto), and in general get into the swing of the new age, which is, yup, tribalism. Sort of.

I confess that I wouldn't be very happy if I were obliged to sail on a sloop steered by these gentlemen *either*, and I find it most curious that radical thought in this country should be so heavily weighted in the direction of such eccentric theorizing. For weighted it surely is: Fuller and the McLuhan team are probably the most prominent popular instances one can find of what passes for deep radical thought in the country now, and with all appropriate respect for what they have done to alert us to the electrical age and synergetics (and for Fuller's innovations, such as his Dymaxion House—see the "Blandings" reconsideration in this issue). I find their prominence depressing; it signalizes I think that our citizenry has come to assume—and with good reason—the complete inefficacy of the social and political reformism that is pragmatic and worked out and *present among us*. In other words the citizenry, having noted that nothing and nobody are working nohow, have turned in their wisdom to the freaky. Our social machine is stuck; the regular mechanics are perplexed; so we call in the wizards of Oz.

Now it may be, as both Fuller and the McLuhan team tell us, that we need to make over our minds a bit, but I

Note:

John Osborne's Third Year of the Nixon Watch *has just been published by Liveright ($6.95).*

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really don't think the wizards will help us do it. Utopia has fallen on hard times, as have the possibilities for controlled social and cultural change of even the most modest dimensions. In effect we are afloat in Fuller's sloop—or on the spaceship earth—with nobody at the wheel but the likes of the wizards, one of whom (Fuller) is so busy looking far far ahead that he'll likely run hard aground on the next sandbar, and the others so busy quoting *Finnegans Wake* and coining witticisms ("Seven Pillows of Was-dom," "War of the Tribal Credit Cards," "Cybernetics Loops the Bloop," and so on forever) that they steer all loose and floppy downwind.

Reed Whittemore

In Brief

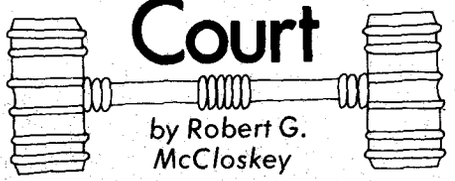
William Butterfield
by Paul Thompson

(MIT Press; $25.00)

High Victorian architecture had a lot of gothic and a lot of confusion built into it and William Butterfield (1814-1900), a leading British church architect in the Gothic Revival, is a good place to begin to understand both the gothic and the confusion. His work has been described as ruthless, as deliberately ugly, as "a calculated assault on the sensuous qualities latent in the simplest building forms"; and the cause of his esthetic "brutality" has been found in the social conditions of the mid-19th century where a newly monied and therefore tasteless industrial class was calling the shots. But all this is quite wrong, says Paul Thompson of the Department of Sociology of the University of Essex.

In the first place, says Thompson, the old aristocracy was still behind the major building decisions of the period. In the second place Butterfield was not himself a crude manifestation of the new world but an austere, pious eccentric who on the one hand joined the Oxford Movement because it was a reassertion of church formalities (he wished to hold on "to Prayer Book and Authorized Version, to strict observation of the Law; to objective rather than subjective religion") and on the other hand saw in a declining church—it was particularly the working class that had

The Modern Supreme Court



by Robert G. McCloskey

In the American experience it has been usual for the Court to reflect the stronger forces of national opinion as they developed over time. What Robert McCloskey has shown about the recent Court, especially under Chief Justice Warren, is how in vital areas it went beyond established views, leading and creating opinion, rather than following and reflecting it. McCloskey was by training a political scientist and by scholarly instinct a historian concerned with contemporary events. In this book, published after his death, McCloskey gives us a significant and timely study of the development of the Court during the past generation. $12.95

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become disenchanted—a need for a new religious spirit in the slum-ridden urban England growing up around him. And so he looked for inspiration in the spirit of early christianity, mixing a dedication to modern building techniques (he was a stern taskmaster and wrote angry letters to sloppy builders that are a delight to read today) with a passionate historicism as he went about designing perhaps a hundred churches and chapels (the most famous is probably All Saints' Margaret Street in London), and scores of university and school buildings (particularly at Oxford and Rugby), parsonages and other houses.

Thompson has a fine spaciousness, a mixture of Ruskin and earth in his approach to architectural issues; and the result is a remarkable book, infinitely detailed for the architect-professional, yet pleasantly speculative for the social historian—another reminder of how readily buildings will offer us clues to our spiritual, intellectual and economic lives if we will but listen. The book is also beautifully printed, with some 400 illustrations.

The Education of Edward Kennedy by Burton Hersch

(Morrow; $10.95)

The reason Teddy Kennedy got in trouble at Harvard was that he succumbed to a dare and allowed a football friend to take his Spanish midyear exam for him. This is Mr. Hersch's version of the incident; it's convincing, and if accurate quite revealing in the way it links Teddy's early blunder with later ones, suggesting the nature of the personal flaw that underlies them all. By this account, Teddy's mistake at Harvard was a sin of omission, of passively taking part in a scheme whose significance he didn't grasp until after the axe had fallen. The experience sobered him, but as later sections of the book show it couldn't expunge whatever it was in his character that let him acquiesce foolishly to great risk.

In law school at the University of Virginia, for example, Kennedy waged a private war with the local constable by running red lights. The first time around, he escaped penalty by outspeeding the police cruiser. The policeman (Thomas Whitten) recognized Kennedy's car, though, and one week later, on Saturday night, he was ready at the stoplight. When Kennedy's car shot by on schedule at 90 miles an hour, Whitten sped behind and drove straight to Kennedy's cottage. "Whitten stepped out of the patrol car; Kennedy was not around, but 'I knew he hadn't had time to get out,' Whitten says: he found his man doubled up and hiding in the darkness under the steering wheel. 'He came out weak as a cat. He gave me no lip.' " Kennedy picked up two more red light tickets after that, and his driving habits became a family joke.

There's another hair-raising story about Ted's visit to Madison, Wisconsin when he was campaigning for his brother Jack in 1960. He appeared at a college ski-jump contest, and finding himself challenged, agreed to go down the 180-foot-jump himself, though he had never been on one before. Kennedy said later, "I wanted to get off the jump, take off my skis or even go down the side. But if I did, I was afraid my brother would hear of it. And if he heard of it, I knew I would be back in Washington licking stamps and addressing envelopes for the rest of the campaign." He jumped and landed safely, but told friends later that it had given him the most intense feeling of pure physical terror he'd ever felt. Hersch argues that this compulsion to live up to superhuman standards, common to all Kennedys but most intense in the younger brothers, came to an end in Teddy with the Chappaquidick accident. After that, and after the death of Joseph senior, Teddy's self-image assumed reasonable human dimensions.

The book swells with detail, and most of the quotes are documented with footnotes—hundreds and hundreds of them. They lend a scholarly air to what is in fact a flashy, conversational pop-history of the Kennedy family and Teddy's personality in particular. Although Hersch is thorough, trying to fill in every gap with first-hand evidence, he never comes to a final judgment on what he's offered. Perhaps the essential problem is that he's writing about a living person, and a relatively young one at that. But he also has an irritating tendency to overindulge in metaphor, obscuring his message. For example, this is how Robert Kennedy enters the picture: "Bobby. The appearance of the reluctant Bobby: it is 1952 now and that moment has come at last when perfervid self-doubting little Bobby Kennedy lands, like a smear of guano dropped behind the ever-quickening high-soaring black Condor of the American Destiny, to lay his stain upon the immobile body of our Eisenhower-era politics. The sleeper will continue to lie there sputtering with overfatigue throughout the entire logy decade, from year to year, coughing to punctuate its unformulated dreams, and at first there is scarcely any notice taken at all of the fact that this unexpected encrustation would seem to have an extraordinarily high pervading acid content . . . ." And so on. The point is, the book's better as journalism than history, but as journalism it's puffy.

Soundings: Encounters with Contemporary Books by Peter S. Prescott

(Coward, McCann & Geoghegan; $7.95)

A collection of reviews by perspicacious, perceptive Peter Prescott which appeared during the '60s and early '70s in such varied places as *Women's Wear Daily* (and so do men's), *Look* and *Newsweek*, and which goes to prove, among other things, that it is hard to keep a good mind down. But *why* in hard covers, when such an expert as PP must know that he himself wouldn't touch such a collection with a 10-foot carriage bar? Well, for one thing, PP is one of the best reviewers around, a transcendental reviewer, who gives you something more than a quotable quote, who moves like the hummingbird, stings like the bee, and does not labor over the gnat. Sample zap: "Elia Kazan's first novel is dreadful. It is also a simple, sincere story, and it ought to have been a good book. It will please a lot of people, many of whom will think they have read a good book, and it will make a lot of money for its author and publisher." How's that for the kind of prophecy that's instant history?

Here's another: *Soundings* will *not* make a lot of money for author and publisher, though it should, and in a better and more perfect world than ours it cer-

NOTES ON CONTRIBUTORS

NORMAN MARK *is radio-TV critic for the* Chicago Daily News. *Poet* DAVID WAGONER *is editor of* Poetry Northwest. JAMES BOATWRIGHT *is editor of* Shenandoah, *literary magazine of Washington & Lee University. A former lecturer in humanities at George Washington University,* DAVID BOWMAN *has just moved to Costa Rica.*

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tainly would. There are a lot of pleasant surprises in it, the biggest of which is how few of Prescott's prophecies were wrong, how accurate his first impressions were. Why not take *Soundings* along to the beach this vacation, as a sort of reviewer's course in the literary scene of the '60s—the Birth of the New Journalism, the Continuing Drama of the Death of the Novel, the Ups and Downs of Mailer, Bellow, Baldwin, Updike, Roth.

Reconsideration

Eric Hodgins

We had a great chance. From 1946 to 1950 we had the money, materials, leisure, optimism, and will to do it all. We could solve our problems, help our neighbors, and live at peace with the world. But we blew it. If you want to see where we went wrong, look to this period.

Eric Hodgins' two books about the Blandings family are the book-ends for the period. Mr. Blandings is Mr. America building his dream house; it proves to be a nightmare experience. Mr. Blandings is a nice guy, not having heard that nice guys finish last; his way proves to be the impossible way. The Blandings books are fine parables of what has happened to us.

Mr. Blandings Builds His Dream House
by Eric Hodgins
Published in 1946 by Simon & Schuster

Blandings Way
by Eric Hodgins
Published in 1950 by Simon & Schuster
Both are now out of print.

A condensed version of *Mr. Blandings Builds His Dream House* appeared in the April, 1946 issue of *Fortune*, because Hodgins was an editor there and *Fortune* had an eye out for what was about to happen in America with the war ended (in the same issue was a major article on Buckminster Fuller's Dymaxion House). Encouraged by the reception his piece got, Hodgins expanded it into a book. It was intended as a cautionary tale for the home-buyer and a devastating commentary on the state of the building trades. Instead, it became a best-seller and a movie.

His book took on the whole housing industry—the real estate swindlers, the hidden costs of restoring an old house in the country, the eight different subcontractors unable to coordinate their deliveries and work schedules, and the miscellaneous troubles with paints, hardware, title insurance, well-drilling, plumbing, and electricity. Hodgins showed that anyone who builds their own home deserves it.

Having called our attention to these matters, Hodgins undoubtedly assumed something would be done about them. But by the end of *Blandings Way*, his own persona knew better: "Nothing was in the open . . . and nobody cared much. *That* was the point. Nobody cared. Learn that, Blandings." Yet Hodgins' original optimism that something would be done continued to be the prevailing mood. For example, in *For This We Fought: Guide Lines for America's Future* (1946), Stuart Chase pointed out that while other countries were being destroyed, "we added $20 billion in new plants, we doubled our inventory of machine tools, and we trained millions of workers in new skills." And the great industrial designer, Walter D. Teague, in *Land of Plenty: A Summary of Possibilities* (1947), showed in industry after industry that America, "standing at the frontiers of limitless unexplored lands, in the realms of power, and the control of power; in electronics, chemistry, metallurgy," finally had the means of solving its problems of food, housing, health, education, and welfare.

Knowing that it was already feasible, Teague demanded "a house a man can alter or enlarge by buying spare parts; a sturdy but lightweight house he can disassemble and take with him if he wants to, when he shifts his job, and turn it in on a new model in ten or twelve years when it becomes obsolete; a house he can buy on the installment plan and pay for in two or three years

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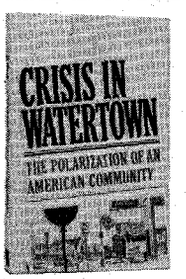

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without a lot of red tape."

"I want to live in a Dymaxion house," says Joanie Blandings, but her father has other ideas. He rejects the functionalist-rationalist approaches of Fuller and Teague and does what seems in Hodgins' eyes to be the utmost folly: completely rebuilding a house out of yesterday using today's building practices for tomorrow's needs. America followed suit, rejecting all of Fuller's Dymaxion ideas and returning to its old foolishness for housing and transportation.

Wilson Wyatt, President Truman's Housing Expediter, called for 2.7 million dwelling units built before 1947; the real estate people yelled foul. The proposal for government to build houses was denounced as communism. With all the economic interests—manufacturers, unions, bankers, and retailers—dedicated to keeping things going as before, it isn't surprising that the federal government failed to develop a housing and transportation policy. The results are with us.

Brilliant critiques of the housing industry—such as Miles Colean's *American Housing* (1944) done for the Twentieth Century Fund—went for nothing. A four bedroom house would weigh 46 tons, so it couldn't be disassembled or moved. The complexity of arrangement and multiplicity of parts—perhaps 30,000 parts per house—meant that houses had to be built slowly, one at a time, by handicraft methods developed prior to the Industrial Revolution. The war housing program had shown how new housing could be built; no one cared. Back to normalcy, and normalcy was the American dream house. Sure enough, after Blandings' eyes have been opened, he finds everyone else is still dreaming; his house wins a national architectural award, as announced in a *Better Homes* magazine, and the book ends.

When we see the Blandings again, four years later, a great deal has happened; most important, the Cold War has happened. As *Blandings Way* opens, Mr. Blandings is busy drafting an open letter to Joseph Stalin for a group of liberal businessmen. But they get cold feet and the campaign is scrapped. By 1950, the optimism of science and technology has been replaced by the pessimism of the political and military. Idealism has been replaced by ideology.

After all, in 1946 the Office of Scientific Research and Development was disbanded, the Rand Corporation was started, first with Douglas Aircraft, and then off by itself, funded by the Air Force. Having done splendid service in the war through operations research and systems analysis techniques, all of that brainpower reenlisted for the war everyone knew was coming. In July, 1946, the Bikini tests were organized by James Forrestal, Secretary of the Navy, to see if seapower could survive atomic warfare. The first bomb was dropped on 60 ships from an airplane; apparently airpower was what was right for the future. Watching the tests on board ship was the King of Bikini; his people had been removed so the tests on animal and plant life would not endanger anyone. Bikini was not merely an atomic test; it was a trial run for our new imperial foreign policy.

Early in 1947, the unification of the armed forces was achieved; the State Department moved to its splendid new quarters at 21st and Virginia Avenue; General George Marshall was sworn in as Secretary of State; and the finishing touches were put on the National Security Act, the gigantic piece of legislation creating the Secretary of Defense (an Orwellian replacement for the Secretary of War) who would head the National Military Establishment (renamed the Department of Defense in 1949). Other features: an independent and powerful Air Force; legal recognition for the CIA and Joint Chiefs of Staff already in existence; and the National Security Council, with its Presidential Adviser for National Security (for our future Bundys, Rostows, and Kissingers).

In March, 1947, President Truman told Congress of the need for helping the free peoples of the world defend themselves against armed aggression from inside or outside their countries. It was the "1947 revolution in American foreign policy" (John Franklin Campbell) and it was explained in April by General of the Army Dwight Eisenhower with the Army Week slogan A STRONG AMERICA IS A PEACEFUL AMERICA, meanwhile being softened by the promise of $15 billion by Secretary Marshall for the European Recovery Program.

In July, Forrestal was sworn in as the first Secretary of Defense, and in August, he shared the speakers' platform with Thomas Dewey, who pledged the Republicans' bipartisan support for American foreign policy, following the lead of Arthur Vandenburg, chairman of the Senate Committee on Foreign Relations, making it nearly unanimous.

Critics of the new policy were being pushed out of the nest. Henry Wallace had been forced to resign as Secretary of Commerce, back in September, 1946, and President Truman had reactivated HUAC and instituted the Federal Employees' Loyalty Program, while Attorney General Tom Clark drew up his list of subversive organizations. When the Communists played the villain, as in the Berlin Blockade of 1948, the wisdom of all these policies was taken for granted. Reading the texts of the Truman Doctrine, Marshall Plan, Eisenhower's Army Week speech, Kennan's containment policy article, and Forrestal's reorganization plans for national defense, one is impressed now that it was not the stupid people who brought us where we are, but the intelligent and capable people.

All this is enough to make a cynic of Mr. Blandings, and it does. In *Blandings Way*, he catalogs the army of experts he meets at a cocktail party: brilliant, liberal, enlightened people serving their country with distinction. "Liberalism," he growls, "has been taken up by the snobs and I want no part of it."

When his daughter Joanie wins a national essay contest, a la *Mademoiselle*, on the subject "What the Atomic Age Means to a Girl on the Threshold of Life," Blandings is quite naturally pleased. But the aftermath is appalling: the national media come with their cameras, lights, and impertinent questions and trample truth and feelings on the way. Mr. Blandings realizes that it is

> one more example of what [is] happening in twentieth century America—the substitution of activity for thought, of technique for understanding.

Worse is to come: Joanie goes on a *Quiz Kids* show and makes a pro-Russian comment (about Mendeleyev and the periodic table) which unleashes a Red-Scare hysteria via national television; she gets a subpoena to testify before HUAC, and all this dies down only after top scientists and educators like "Conant, Compton, Bush, and Oppenheimer . . . testified for her."

Having been pushed into a position on the school board by the national publicity given his daughter, Mr. Blandings now gets the backlash when the board votes down his hot lunch program: someone traces this subversive idea back to the French Revolution. Suddenly he realizes: "The hot lunch is part of the cold war."

Other realizations come to him. He begins to wonder about "the degrada-

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tion that had overtaken American life . . . the slow but accelerating sloppiness that had started to overwhelm it." He realizes that increased efficiency, such as would have been welcome in his house, is a mixed blessing. "I don't like standardization," he says. "I'm willing to buy canned soup, but not canned ideas." But as the vice-president of a highly successful advertising agency—whose senior partner sounds like Bruce Barton—Mr. Blandings lives off selling canned everything. His one attempt to get out of advertising and run the town newspaper is a disastrous failure. So he announces to his family that they are moving back to New York and he is going back to the agency; his family is overjoyed, little realizing what the city will be like in the next 20 years.

What happened to the Blandings has happened to all of us. At the beginning of 1946, "the U. S. stands at the summit of the world" (Winston Churchill); then electronic computers, radar to the moon and back, artificial snow and supermarkets; then a jet-propelled Air Force, Polaroid cameras, the microgroove LP record, Carbon-14 dating, the Corporal ballistic missile, the Freedom Train, three-tailed Constellations, the Friendship Train with food for Europe, flying saucer scares, wash-and-wear fabrics; then transistors, Shmoos (the symbol of plenty), Launderettes, TV (the young monster), aureomycin, and the biggest harvest in history; then the hydrogen bomb. Could it be that "technological innovation disrupts the stable state of society" (Donald Schon)? Or do new things merely keep our minds off realities? By the middle of 1950, the US is ready to plunge into one disaster after another, with villains abroad, fools at home, and complacence all around.

So let us remember Eric Hodgins, a thoughtful man, and two clean, funny, intelligent works of fiction.

David Bowman

Coming:

Arthur Mizener reviews Stephen Birmingham's biography of J. P. Marquand

Correspondence

Taiwan Question

Sirs:

What could infuriate an Asian or African more than Professor John Fairbank's blithe assertion ("Taiwan as a Chinese Problem," May 13) that self-determination is more a "product of European-American experience." Quite the contrary. The last 30 years of world history have been marked by the forceful demands of non-Europeans for self-determination pressed successfully against the European-colonial insistence that "self-determination" was not law or, at least, was never meant to apply to "them." Even the Chinese have made self-determination a fundamental principle of their international law, from Bandung to Shanghai. Nonetheless, Professor Fairbank would deny the Taiwanese a choice, for "the definitions of international law stemming from the European mind and interstate relations are not a magic touchstone to Chinese affairs and arrangements." Why?

1) Because, Professor Fairbank insists, 800 million Chinese, animated by "a force much stronger than European nationalism," all want Taiwan. Whatever this means, we surely cannot establish a viable system of world order by simply giving those with power whatever they demand. Is this not the implication of the recommendation that we base our policy "on more than legal considerations"? Nor should we assume that Taiwan is really a nonnegotiable demand. Many years ago, Professor Fairbank admonished us to bear in mind in Chinese negotiations that "in the ancient tradition of bargaining, in China as elsewhere, an asking price is not a final bid."

2) Because, Professor Fairbank adds, Taiwan has always been a part of China. The historical record shows that: Taiwan was a part of China for seven years (1887-1895); throughout the 19th century the Ch'ing dynasty did not and could not exercise effective power on the island (and admitted as much in diplomatic correspondence); Taiwan was alienated to Japan in 1895; and since the Japanese Peace Treaty of 1951, its status has remained "undetermined." In any case, since the Covenant

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of the League of Nations, territories don't belong to other states; they belong to their inhabitants and territorial transfer requires their consent.

3) Because, he asserts, no one knows what "Taiwanese-Chinese" (Professor Fairbank's neologism) want. Then ask them. It is true that Chiang and his government have controlled the island-state of Taiwan since 1945 and with the exception of one mass uprising in 1947 which Chiang suppressed ruthlessly, among other things massacring 10,000 to 20,000 Taiwanese leaders, the island's administration has manifested a surface tranquility. Have the Taiwanese people thereby indicated that they wish the Chiang government to rule them, that they are Chinese and a part of China? No one will know until the Taiwanese themselves are consulted. The Chiang government has maintained a perpetual martial law on Taiwan, developed an enormous secret police, established concentration camps and has barred the Taiwanese from participating in public affairs, limiting them to a token three percent of the central government. One does not repress people in this way if one is certain of their support.

4) Because "any reintervention by the United States to demand an exercise in self-determination by such means as a plebiscite in Taiwan is likely to bring the weight of Chinese patriotic feeling down upon us." Of course, human rights exist for weaker human beings and smaller states. If these rights are not upheld when threatened by the stronger, then they are meaningless. If, indeed, "legal considerations bulk rather small compared with the moral, spiritual, and psychological claims [whatever this means] exerted by 800 million Chinese upon the 15 million who are a hundred miles off shore," then any possibility of human rights in the world is smothered.

5) Because American insistence on a consultation of the wishes of the Taiwanese, Professor Fairbank fantasizes, is interventionist when we should be getting out. Wherever we are getting, we are not getting out of the world. In it, insistence on compliance with fundamental human rights is not an unlawful intervention, but rather a necessary component of international civic responsibility. Nor need it be followed by military action. In many circumstances, a forthright condemnation may itself act to deter international crime. I believe that if the United States had immediately and publicly denounced the allegedly "domestic" genocide in East Bengal, the Yahya Khan government would have stopped it quickly. The rest of the world would have followed us; even China might have.

Michael Reisman

Liberals and Radicals

Sirs:

In his review of Howard Sherman's *Radical Political Economy* (April 15), Melville J. Ulmer states that if the book were "a full and accurate account of new left economic thinking, the appeal of the Union of Radical Political Economics to many students and younger professors would stand as one of the unfathomable mysteries of current history." Professor Ulmer's case for this assertion is based on indefensible distortions of Sherman's book. The review succeeds only in illustrating the liberal hypocrisy that the younger professors and students of economics find so repulsive, not the weaknesses of Sherman's book, much less those of the Union for Radical Political Economics.

Ulmer begins the review by claiming that "Howard Sherman . . . proudly states in the first chapter that his book is to be 'taken as a manifesto of the radicals in economics, the Union of Radical Political Economics'. . . ." The passage in Sherman actually reads as follows: "This book might be taken as a manifesto of the radicals in economics, the Union for Radical Political Economics, except that no one invited it, and that each member has fiercely differing views on every specific topic. . . ."

Again Ulmer writes: "Thus time and again Sherman will violate all historical, anthropological and other evidence to assert, for example that race and sex discrimination are indigenous to capitalism. . . ." On page 177 of his book, Sherman speaks of racism as having existed for centuries. On page 184, Sherman speaks of different forms of sexual exploitation in primitive societies. Furthermore, in his discussions of socialist economies, Sherman explicitly asserts that sexual and racial discrimination can and do exist in socialist societies (pp. 322-333). What Sherman does state is that discrimination performs some very important functions in a capitalist economy—hardly a startling assertion, in fact one that I have come across often in the pages of *The New Republic*.

Most of Ulmer's criticisms of (and ad hominem attacks on) Sherman are based on equally indefensible distortions of Sherman's ideas. Undoubtedly the part of Sherman's book that irritates Ulmer (and most liberals) most intensely is Sherman's "treatment of democratic procedures, under capitalism, as an elaborate sham, a view that reduces efforts at reform to the status of an empty ritual." With this sentence Ulmer has gotten to the essence of the difference between liberals and radicals. . . . Several recent events (the escalation of the Vietnam war, Jack Anderson's revelations about IT&T, the reports of the Citizen's Research Foundation on the financing of political campaigns, to name only three) have once again shown the tenuous nature of the liberal faith in capitalist democracy. When that faith is challenged by radicals such as Sherman, it is all too easy to avoid a direct and honest response to this challenge and resort to hypocritical distortions designed to discredit the critic so that the liberal will never have to face the possibility that efforts to reform within the existing economic system just might be empty rituals.

E. K. Hunt
University of California
Riverside

In reply:

The "indefensible distortions" lie elsewhere than in my review.

1. It is unimportant whether Sherman thought of his book as speaking in behalf of the new left "radical" economists, but significant that his colleague and collaborator, E. K. Hunt, does not complete the sentence he quotes on this point. The omitted words are: "though most [radical economists] seem to share [with me] the general methodology of nondogmatic Marxism." Elsewhere in *Radical Political Economy* Sherman describes his presumed role as spokesman even more clearly: "Little or nothing in this book is a unique discovery of mine, but this book does attempt to gather together in a unified whole all the contributions to political economy of the recent outpouring of New Left, radical, and nondogmatic Marxist thought." The interesting question is why Hunt denies the unmistakable import of this sentence?

2. Sherman explicitly links racial, religious, and sex discrimination *casually* with capitalism. He writes: "The real

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causes" of discrimination reside in "economic exploitation" under capitalism and "since that exploitation is at the heart of the system, legal reform cannot give much help." As for every other social and economic ill, he recommends revolution.

3. It would have been in accord with what I had termed his "literary schizophrenia" if Sherman had given indication in another section of his work that he had a deeper understanding of discrimination than the above quotation implies. I therefore reread pages 177 and 184 with especial interest, but did not find what Hunt had promised. In particular, on page 184 Sherman does *not* discuss different forms of sex discrimination in primitive societies, and in fact says: "Only with the coming of 'civilization'—meaning class distinctions, and possession of property in land, cattle, slaves, or serfs—does the woman also become a piece of property." On page 177 he describes "centuries-long" persecution of Jews by gentile capitalists.

4. Finally, and this is the only other point of substance Hunt makes, there is the question of reform through democratic procedures versus revolution. Is it hypocrisy, as Hunt and Sherman contend, to strive vigorously but through orderly political means for concrete social and economic improvements now? Or is it hypocrisy to abandon to their fate this generation (at least) of Americans, including blacks, unliberated women, the poor, and the alienated, in order to await a distant but updated revolution?

Melville J. Ulmer

Corporate Practices

Sirs:

In their article "Crime in the Suites" (April 29, 1972), Messrs. Nader and Green repeat that old quotation from the not-so-great sociologist, Edwin Sutherland, that half to three-quarters of all corporations have engaged in illegal restraint of trade so that "they may properly be called 'habitual criminals.'" That is the theme that animates their article. Unfortunately, they gloss over what "crime" means. They also gloss over why so few businessmen are convicted of antitrust violations.

The main reason is that courts have never been easy with the criminal use of the antitrust laws. Since the famous *Nash* case in which Justice Holmes pronounced that the antitrust laws were not too vague to be constitutionally applied as criminal statutes, judges have remained justly skeptical about that use. Despite some further scares, like the divided decision in 1952 that "unreasonably low prices" was not too vague to be applied criminally, judges have tended either to reverse criminal convictions or to sentence convicted defendants lightly. I might cite the recent tetracycline case, which the authors mention but do not tell its outcome. This criminal prosecution ended with the court of appeals reversing the convictions because of errors in the trial court and with their decision being upheld by an equal division in the Supreme Court.

The inclination of judges to scrutinize criminal antitrust convictions very strictly is, in my judgment, very defensible and is probably a central reason for the lax enforcement that the authors oppose. Criminal guilt is personal. The idea of corporate criminality is, in a real sense, a contradiction in terms. The overuse of criminal law is one of the most unfortunate aspects of Mr. Nader's new populism.

Herbert L. Packer
Stanford Law School

Space Shuttle

Sirs:

Whether or not the space shuttle (editorial, May 27) is a "boondoggle" depends on one's point of view toward the social and intellectual utility of space exploration. However, your conclusion that its main purpose is military can hardly be justified in the light of the scientific, technical and ecological objectives the vehicle is being designed to serve. There just isn't enough military satellite business for such a vehicle. That is the reason the air force abandoned its space airplane project a decade ago.

The shuttle is the first development in a rather ambitious interplanetary manned transportation system, proposed by the Space Task Force in 1969. Your notion that its principal utility is to ferry satellite repairmen to and fro seems to be stretching poetic license. If it does get off the pad circa 1978, it will function mainly as a ground-to-space-station ferry as well as a light truck to establish meteorological, communications, earth resources and military satellites in orbit. I have not seen any evidence that military satellites will predominate in shuttle missions. Have you?

Your statement that the NASA arsenal of launch vehicles can lift satellites of up to 27,000 pounds must have been distorted by typographical error. Last month, a NASA Saturn 5 launch vehicle boosted Apollo 16, weighing in excess of 100,000 pounds, to lunar orbit.

I suggest that the shuttle represents a rational approach to space exploration, at last. If, in the light of the world's unresolved woes, you assert that space exploration is a boondoggle, would it not be more reasonable to oppose the shuttle on that basis?

Richard S. Lewis
Chicago, Illinois

Civil War Revisited

Sirs:

As writer of the television documentary "Surrender At Appomatox," I found John S. Rosenberg's unfavorable review (May 13 issue) highly instructive and entertaining. Citing the summation line, "It is hard to explore the corridors of the past without coming face to face with ourselves," he accuses the film of twisting history in order to draw paral-

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lels between Lincoln's and Grant's heroic perseverance during a prolonged and increasingly unpopular Civil War, and Nixon's handling of the Vietnam War. Bizarrely, nowhere in his review does Mr. Rosenberg even *mention* that the script dealt at equal length with the Confederacy and General Lee, who eventually found himself fighting what he knew to be a losing conflict, yet out of false pride and intellectual blindness kept it going, sacrificing his men in a futile war. To quote myself: "The head of an army, Lee is the prisoner of his role."

A pro-Nixon reviewer could just as easily have leapt on that part of the story, which was developed in considerable detail, to accuse us of distorting history in order to subtly undermine the current administration. In fact, I never mentioned Nixon but simply presented the Civil War as it was seen, primarily, through the eyes of Grant and Lee, and left it to the audience to draw its own parallels at its own risk. It's hard to believe that Mr. Rosenberg missed all this. He chose, however, to ignore it, to give your readers the impression that the film was an apologia for Nixon and the Vietnam debacle. And my motive? Rosenberg slyly asks, "Was 'Appointment With Destiny' designed to regain some of the favor CBS lost at the White House with 'The Selling of the Pentagon'?"

Just for the record, I do not work for CBS and I don't give a damn about its relations with the White House. As a free-lancer, I wrote the script for Wolper Productions which produced the film independently. It just happened to play on CBS and I never heard from anyone at the network regarding what kind of approach to take toward either past or present history. If I had, I would have told them that I think Nixon is one of the most unsavory and bubbleheaded men ever to occupy the White House, but that would have no bearing on anything I'd write about a war that ended over a century ago.

Your TV critic could have checked any of this with a simple phone call. Instead, he chose to suggest foul motives. Let me suggest that his review is a sign of the paranoia of our times. When you see something that challenges your values, or that might be even loosely interpreted as favorable to the other side . . . attack, distort, destroy. In order to grind his own political axe, he wrote a devious and dishonest review about a phantom documentary that I never wrote, that CBS never played, and that no one ever saw, except perhaps himself.

Al Ramrus
Los Angeles

In reply:
Whether he is aware of it or not, Mr. Ramrus did not "present" the Civil War, he interpreted it, and the point of my review was that his interpretation was distorted and seriously flawed by glaring but misleading parallels to the present. I concentrated on his treatment of the Union only because it was the most inaccurate and offensive in this regard . . .

John S. Rosenberg

Amnesty

Sirs:
James Reston, Jr.'s criticisms of the Taft and Koch amnesty bills ("Universal Amnesty," Feb. 5) is to some extent justified, but his arguments in favor of a universal amnesty do not entirely convince me. I would prefer to see legislation containing the following provisions:

1) All those who chose to leave the country rather than submit to the draft and a possible assignment to Indochina shall, in order to return, request and automatically be granted conscientious objector status with its obligation of alternate service for a period of two years;

2) All those who chose to go to prison rather than enter the armed services shall be immediately released and shall also be granted conscientious objector status with its obligation of alternate service, except that time spent in prison shall be counted against that obligation in the amount of two months for every month behind bars;

3) All those who deserted while on assignment in Indochina or upon knowledge of their assignment thereto shall at the option of the Department of Defense serve out their tour of duty (elsewhere) as calculated from the day they were officially declared deserters, or shall be discharged immediately. In either case the discharge shall be honorable. I feel that a decision to leave the country or go to prison is prima facie evidence of conscientious objection, and should be recognized as such. On the other hand, entering the armed services indicates a willingness to take part in military activities so long as they do not offend one's conscience. The provisions suggested above recognize both these attitudes as well as the fact that time spent in prison is more unpleasant than time spent in alternate service.

Stephen J. Meyers
Rockville, Md.

Kauffmann, *from page 22*

oddly in recent years, is back to his good old self. But the script by Melville Shavelson (who directed) and Danny Arnold (who produced) is a spottily funny cornball.

Lemmon plays a New York cartoonist and author related to James Thurber only in that he has bad eyesight and some Thurber works are shown as his. He gets involved with a young divorcee with three children who works in a bookshop. Her ex-husband, a war photographer (grinning Jason Robards), comes to their wedding. Lemmon and Harris "meet cute." Later her dog gives birth in the middle of a New York street. Later, the two men get drunk together. In short, Thalia, the muse of comedy, has not really been run ragged responding to the authors' demand for fresh inspiration. Outside of the use of Lemmon's bad eyes as the comic-pathetic pivot and a good deal of modish sex permissiveness, the whole thing smells of mothballs.

There are a few good lines, but the pickings are thin, and are made thinner by the use of that most wearisome of special effects, the mixing of cartoon figures with live actors.

World, shape up! Give Barbara Harris the pictures and the public she deserves.

Book Notes. Eric von Stroheim had one of the most bizarre careers in film history. Of all phenomenally gifted directors, he is the one least faithfully represented by the available versions of his films. He directed, or started as director of, nine films, only the first two of which were shown substantially as he wanted them to be seen. In most instances, the difference between what

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was shot and what was released is huge.

The outstanding example of this disparity in Stroheim's career, if not in film history, is *Greed*. (This was not even his title; he wanted to call it *McTeague*, like the Frank Norris novel from which it was made and which he adored.) The film was finished, or first finished, in early 1924, and Idwal Jones of the San Francisco *Daily News* left an account of a private screening he attended of that first version—54 reels, at least, which ran nine hours. Then the condensations began. Stroheim himself reduced it to seven hours; then, on another try, to four hours. Rex Ingram, the director who was Stroheim's friend, then cut it to three hours. The final cut, the released version, was made by the Metro-Goldwyn studio and ran two and a half hours.

The original version of *Greed* has become as much of a legend as that famous Jenny Lind record. So far as is known, that original version no longer exists. But two attempts have now been made in book form to show us what it was like. Simon and Schuster have published the original screenplay ($4.95) edited by Joel W. Finler to show what material was cut. Arno Press has published a huge picture volume, called *Greed*, compiled and introduced by Herman G. Weinberg, an eminent devotee of Stroheim, who has used his own collection of stills. Many of the stills are from deleted sequences. The price is $50. Film schools and libraries, among others, will want it.

Few readers of these books will regret that the film now runs less than nine hours; few will be happy that much of Stroheim's footage is apparently lost. At a guess, the four-hour version would have provided all the density and brilliant naturalism that we could stand. But Stroheim could "see," as few directors have been able to; and nothing that he "saw" should have been destroyed. If, in the right instances, people find value in writers' notebooks and painters' sketchbooks, why not equivalent directors' out-takes?

Guidebook to Film by Ronald Gottesman and Harry M. Geduld is a valuable reference book (Holt, Rinehart & Winston; hardbound $6.95, paperbound $3.95). It has a 70-page bibliography of books and periodicals, plus a listing of unpublished theses and dissertations about film. It also lists film museums, schools, distributors, bookshops, festivals and various services. To judge by letters of inquiry I get, this book speaks to a real need.

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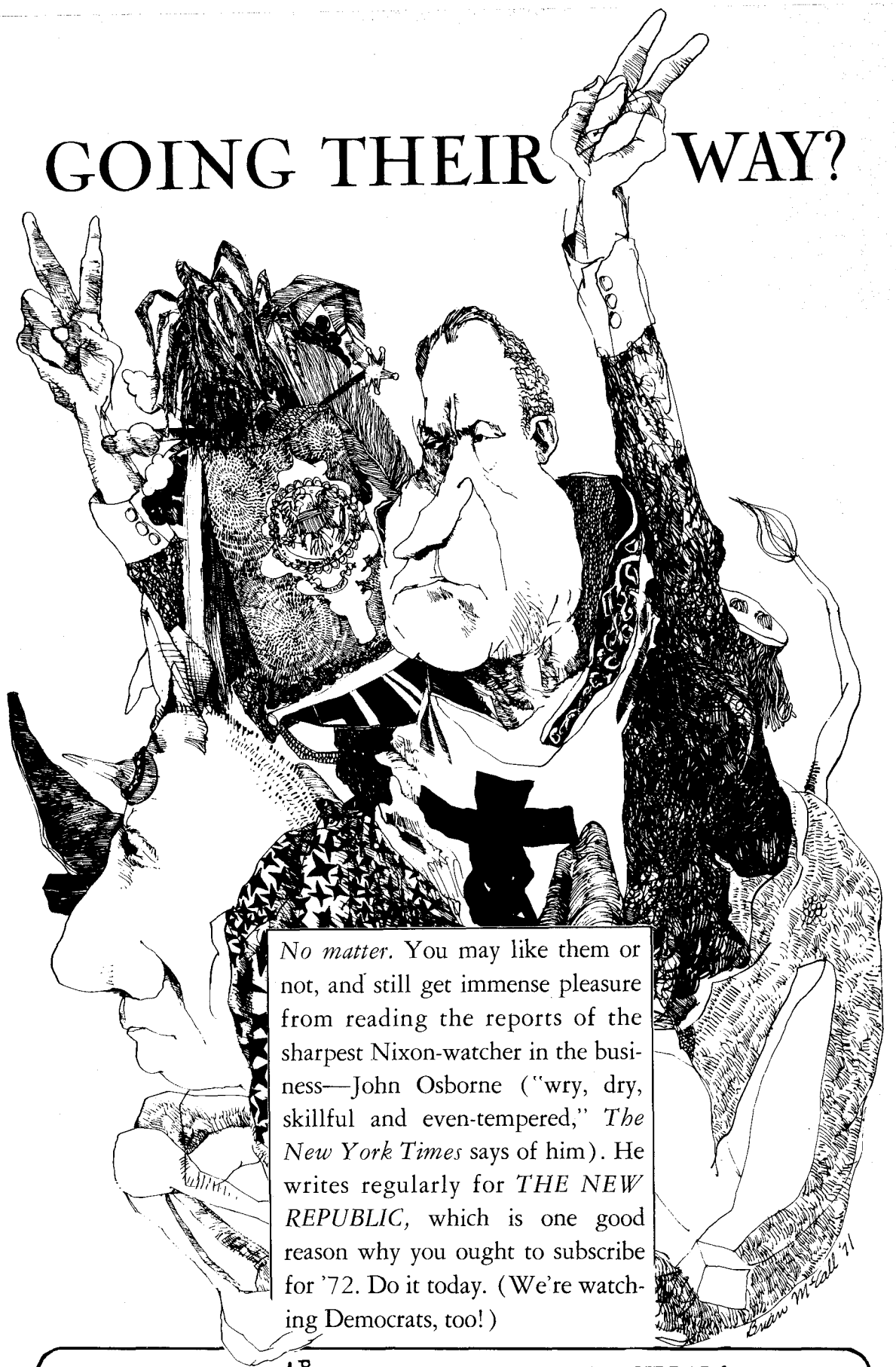

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